



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MT, CNR

Introduction

The Application for Dispute Resolution filed by the Tenant seeks the following:

- a. An order for more time to make this application.
- b. An order to cancel the one month Notice to End Tenancy dated September 2, 2015.

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the Notice to End Tenancy was personally served on the Tenant on September 2, 2015. Further I find that the Application for Dispute Resolution/Notice of Hearing was personally served on landlord on September 30, 2015. With respect to each of the applicant's claims I find as follows:

Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the tenant is entitled to more time to make this application?
- b. Whether the tenant is entitled to an order cancelling the Notice to End Tenancy dated September 2, 2015?

Background and Evidence

The parties entered into a one year fixed term tenancy agreement that provided that the tenancy would start on January 1, 2015 and end on December 31, 2015. The tenancy agreement provided that the tenant(s) would pay rent of \$900 per month payable in

advance on the first day of each month. The tenant(s) paid a security deposit of \$450 on December 17, 2014.

The tenant became ill, was not able to work and his rent fell into arrears in the sum of \$3900 as follows:

- \$200 is owed for August 2015
- \$900 is owed for September 2015
- \$900 is owed for October 2015
- \$900 is owed for November 2015
- \$900 is owed for September.
- \$100 is owed in late fees as agreed by the parties. .

The tenant testified he attempted to pay the arrears including the rent for October at the end of September but the landlord refused to accept his payment. The tenant has not tendered payment of rent for November and December. The landlord takes the position that the tenancy must come to an end.

Settlement:

The parties reached a settlement and they asked that I record the settlement pursuant to section 63(2) of the Residential Tenancy Act as follows:

- a. The parties agree the tenant owes the sum of \$3900 in rent and late fees to December 2015.
- b. The tenant represents he will make the following payments:
 - The sum of \$3900 on or before December 18, 2015.
 - The sum of \$900 (rent for January 2016) when due on January 1, 2016.
- c. The parties mutually agree to end the tenancy as provided below.
- d. The parties request that the arbitrator issue an Order for Possession on 2 days notice. If the tenant makes the payment as provided above the tenant shall be permitted to remain in the rental unit until January 31, 2016 at the latest on a "use and occupation" basis. If the tenant fails to make any one of those payments the tenancy shall come to an end immediately and the landlord has the right to enforce the Order for Possession.
- e. The tenancy shall come to an end on January 31, 2016 at the latest and the tenant must vacate the rental unit in accordance with the Order for Possession.

Order for Possession:

As a result of the settlement I granted the landlord an Order for Possession on 2 days notice.

The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court of British Columbia for enforcement.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under section 9.1(1) of the Residential Tenancy Act.

Dated: December 01, 2015

Residential Tenancy Branch

