



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Coquitlam Kinsmen Housing Society
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET

Introduction

This hearing dealt with the landlord's application for dispute resolution under the Residential Tenancy Act ("Act") seeking an order ending the tenancy earlier than the tenancy would end if a notice to end the tenancy were given under section 47 of the Act.

The landlord's agent (hereafter "landlord") attended the telephone conference call hearing; the tenant did not attend the hearing.

The landlord testified that he served the tenant with their application for dispute resolution and notice of hearing by leaving the documents with the tenant a few days after he received the filed application from the Residential Tenancy Branch ("RTB").

Based upon the submissions of the landlord, I accept the tenant was served notice of this hearing and the landlord's application in a manner complying with section 89(1) of the Act.

The landlord was provided the opportunity to present his evidence orally, to refer to relevant evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all evidence before me that met the requirements of the Dispute Resolution Rules of Procedure ("Rules"); however, I refer to only the relevant evidence regarding the facts and issues in this decision

Issue(s) to be Decided

Should the tenancy end early and an Order of Possession be granted to the landlord?

Background and Evidence

In support of their application, the landlord testified that there is condensation on the windows of the rental unit and he believed the condensation would cause mold in the rental unit. The landlord referred to his photographs submitted into evidence.

In response to my question, the landlord stated that he attempted to inspect the rental unit, but was prevented from so doing as the tenant refused to answer the door when he attended.

The landlord submitted further that the tenant has not paid rent for 3 months.

Analysis

Section 56 of the Act is an extraordinary remedy which grants the Director authority to end a tenancy without a notice to end a tenancy if sufficient cause is established and the landlord demonstrates that it would be both unfair and unreasonable to allow the tenancy to continue until a 1 Month Notice to End Tenancy for Cause ("1 Month Notice") under section 47 would take effect. This section also lists the reasons for ending a tenancy early.

I deny the landlord's application as I find that the landlord has not met the test required under section 56 of the Act to end this tenancy early.

I find the landlord failed to prove that condensation appearing on the window of the rental unit has caused mold which would put the landlord's property at significant risk or cause extraordinary damage to the residential property. I find that all the stated reasons for an early end to the tenancy brought forward by the landlord could be addressed by a 1 Month Notice issued to the tenant.

Additionally, I find that unpaid rent is not a cause for ending the tenancy under section 56 of the Act.

Due to the above, I find the landlord has not provided any compelling evidence or reasons to demonstrate that it would be unreasonable or unfair to the landlord to wait for a notice or hearing for dispute resolution under section 47 to take effect. As a result, I dismiss the landlord's application, without leave to reapply.

Conclusion

I have dismissed the landlord's application without leave to re-apply as I have determined that the landlord has not demonstrated that it would be unfair or unreasonable for the landlord to wait for a notice to end tenancy to take effect under sections 47 of the *Act*.

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 10, 2015

Residential Tenancy Branch

