



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding SOLUS TRUST COMPANY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

CNL

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant filed under the Residential Tenancy Act, (the "Act"), to allow an extension of time based on a 2 Month Notice to End Tenancy for Landlord's Use of Property, issued on October 27, 2015 (the "Notice").

Both parties appeared, gave testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

Preliminary matter

At the outset of the hearing the landlord's agent requested an order of possession.

Issue to be Decided

Should the tenant be allowed an extension of time to vacate?

Background and Evidence

The tenant indicated that they asking to extend the effective date of vacancy from December 31, 2015 to January 31, 2016, due to their personal circumstances.

The landlord's agent indicated that the property was sold effective January 15, 2016; however, due to the hearing they had to work out an arrangement with the new purchasers. The agent stated that they are not agreeable to any extension of time as the new purchaser wants to take possession of the property as soon as possible.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

The tenant was served with the Notice, with an effective vacancy date of December 31, 2016. The tenant was not disputing the Notice; however, seeks an extension of time. The landlord

objected to any extension of the time as the property needs to be vacant and prepared for the sale of the property, which has been delay as a result of the tenant's application for dispute resolution.

In this case, the tenant was served in accordance with the Act, and had over two months to find new accommodations. Although I accept the tenant has personal circumstance, I find those do not override the landlord's rights and obligations to provide vacant possession to the new purchaser. I find any further delay would be unfair to the landlord. Therefore, I dismiss the tenant's application for an extension of time.

As the tenant's application is dismissed and the landlord requested an order of possession at the hearing, pursuant to section 55 of the Act, I must grant this request.

Section 55(1) of the Act states:

Order of possession for the landlord

55 (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant an order of possession of the rental unit to the landlord if, at the time scheduled for the hearing,

(a) the landlord makes an oral request for an order of possession, and

(b) the director dismisses the tenant's application or upholds the landlord's notice.

As I have dismissed the tenant's application, I find that the landlord is entitled to an order of possession, pursuant to section 55 of the Act, effective **two days** after service on the tenant.

This order may be filed in the Supreme Court and enforced as an order of that Court. The **tenant is cautioned** that costs of such enforcement are recoverable from the tenant.

Conclusion

The tenant's application is dismissed without leave to reapply. The landlord is granted an order of possession.

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: January 13, 2016

