



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 353806 B.C. Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This is an application brought by the tenant(s) requesting an Order canceling a Notice to End Tenancy for cause, and requesting an Order allowing the tenant more time to file an application.

Some documentary evidence and written arguments have been submitted by the parties prior to the hearing. I have thoroughly reviewed all relevant submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All parties were affirmed

Issue(s) to be Decided

The first issue I dealt with is whether or not to grant an Order allowing the tenant more time to file an application.

Background and Evidence

On December 15, 2015 the landlord posted a 10 day Notice to End Tenancy on the tenant's door.

The tenant admits to having received the Notice to End Tenancy on January 1, 2015.

The tenant filed for dispute resolution on January 15, 2015 claiming she could not file within the required timeframe because she was in hospital due to pregnancy issues; however she has provided no evidence in support of this claim.

Analysis

Sections 47(4) & 47(5) of the Residential Tenancy Act state:

(4) A tenant may dispute a notice under this section by making an application for dispute resolution within 10 days after the date the tenant receives the notice.

(5) If a tenant who has received a notice under this section does not make an application for dispute resolution in accordance with subsection (4), the tenant

(a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and

(b) must vacate the rental unit by that date.

Further, section 90(c) of the Residential Tenancy Act states:

90 A document given or served in accordance with section 88 *[how to give or serve documents generally]* or 89 *[special rules for certain documents]* is deemed to be received as follows:

(c) if given or served by attaching a copy of the document to a door or other place, on the 3rd day after it is attached;

Therefore, since the Notice to End Tenancy was posted on the tenant's door on December 15, 2015, it is deemed received on December 18, 2015, and therefore any dispute of the notice was required to be filed by December 29, 2015.

In this case, the tenant has admitted that she received the Notice to End Tenancy by January 1, 2016, and therefore, even if that was deemed the day it was received, she would have had to file a dispute of that notice by January 11, 2016.

As stated above the tenant did not file a dispute of the notice until January 15, 2016 and therefore she is well outside her time frame in which to file a dispute, and, in the absence of any evidence to support her claim that she was hospitalized, I am not willing to allow more time to file the dispute.

The tenant therefore is conclusively presumed to have accepted that the tenancy ends and the tenants must vacate the rental unit, and I therefore will not cancel the Notice to End Tenancy, and pursuant to section 55 of the Residential Tenancy Act I have issued an Order of Possession to the landlord.

Conclusion

This application is dismissed in full without leave to reapply and I have issued an Order of Possession to the landlord that is enforceable two days after service on the tenants.

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: March 01, 2016

Residential Tenancy Branch

