



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MT, CNC, MNR, MNDC, OLC, ERP, PSF, RPP, LRE, AAT, RR, SS

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking more time to cancel a notice to end tenancy; to cancel a notice to end tenancy; a monetary order; an order to serve documents in a manner different than allowed; and several orders to have the landlord comply with a number of sections of the *Residential Tenancy Act (Act)*.

The hearing was conducted via teleconference and was attended by the tenant and the landlord's agent.

Residential Tenancy Branch Rule of Procedure 2.3 states that claims made in an Application for Dispute Resolution must be related to each other. Arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

It is my determination that the priority claim regarding the 1 Month Notice to End Tenancy for Cause and the continuation of this tenancy is not sufficiently related to the tenant's claims for monetary compensation; to have the landlord make emergency repairs; provide services or facilities required by law; return of the tenant's personal property; suspend or set conditions on the landlord's right to enter the rental unit; allow access to the tenant's guests; and to allow the tenant to reduce rent. The parties were given a priority hearing date in order to address the question of the validity of the Notice to End Tenancy.

The tenant's other claims are unrelated in that the basis for them rest largely on facts not germane to the question of whether there are facts which establish the grounds for ending this tenancy as set out in the 1 Month Notice. I exercise my discretion to dismiss the tenant's claims for monetary compensation; to have the landlord make emergency repairs; provide services or facilities required by law; return of the tenant's personal property; suspend or set conditions on the landlord's right to enter the rental unit; allow

access to the tenant's guests; and to allow the tenant to reduce rent. I grant the tenant leave to re-apply for these other claims.

I also note that Section 55 of the *Residential Tenancy Act (Act)* requires that when a tenant submits an Application for Dispute Resolution seeking to cancel a notice to end tenancy issued by a landlord I must consider if the landlord is entitled to an order of possession if the Application is dismissed and the landlord has issued a notice to end tenancy that is compliant with the *Act*.

Issue(s) to be Decided

The issues to be decided are whether the tenant is entitled to more time to submit an Application for Dispute Resolution seeking to cancel a notice to end tenancy and to cancel a 1 Month Notice to End tenancy for Cause, pursuant to Sections 47 and 66 of the *Act*.

Should the tenant be unsuccessful in seeking to cancel the 1 Month Notice to End Tenancy for Cause it must also be decided if the landlord is entitled to an order of possession pursuant to Section 55(1) of the *Act*.

Background and Evidence

The tenant submitted into evidence the following relevant documents:

- A copy of a tenancy agreement signed by the parties on July 31, 2015 for a 6 month fixed term tenancy beginning on August 1, 2015 that converted to a month to month tenancy effective February 1, 2016 for a monthly rent of \$650.00 due on the 1st of each month with a security deposit of \$325.00 paid; and
- A copy of a 1 Month Notice to End Tenancy for Cause issued by the landlord on December 30, 2015 citing the tenant has allowed an unreasonable number of occupants in the unit; the tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property, seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, or put the landlord's property at significant risk; and the tenant has engaged in illegal activity that has, or is likely to have caused or is likely to cause damage to the landlord's property, has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property, or has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord.

The tenant acknowledged receipt of the 1 Month Notice to End Tenancy on December 30, 2015. She explained that she did not apply to dispute it within the 10 days allowed because she did not know how to do it. She stated that it was not until she went to Service BC to get a replacement driver's license that she learned she could apply to dispute the notice. The tenant did not submit her Application for Dispute Resolution until February 1, 2016 (the effective date of the Notice).

Analysis

Section 66 of the *Act* states the director may extend a time limit established under the *Act* only in exceptional circumstances. Residential Tenancy Policy Guideline #36 states that "exceptional" means that an ordinary reason for a party not having complied with a particular time limit will not allow an arbitrator to extend the time limit. The Guideline goes on to say that exceptional implies that the reason for failing to do something at the time it is required is very strong and compelling.

Despite the tenant's testimony, I note the 2nd page of the 1 Month Notice to End Tenancy for Cause clearly outlines that the tenant had the right to dispute the Notice within 10 days of receiving it and that if she did not do that she would be deemed to have accepted the end of the tenancy.

The first page of the 1 Month Notice also contains contact information for the Residential Tenancy Branch under the heading "For More Information".

As such, I find the tenant had available to her the information she needed to either file her Application for Dispute Resolution when she received the notice or to contact the Residential Tenancy Branch within a reasonable time frame.

As a result, I find the tenant has presented to evidence of any exceptional circumstances that would allow me to grant her additional time to submit her Application for Dispute Resolution.

Section 47 of the *Act* allows a landlord to end a tenancy by giving notice to end the tenancy if one or more of the following applies:

- a) There are an unreasonable number of occupants in a rental unit;
- b) The tenant or a person permitted on the residential property by the tenant has
 - i. Significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,

- ii. Seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, or
- iii. Put the landlord's property at significant risk;
- c) The tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that
 - i. Has caused or is likely to cause damage to the landlord's property,
 - ii. Has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property, or
 - iii. Has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord.

Section 47(4) allows a tenant who receives a notice under Section 47 to apply to dispute the notice within 10 days of receiving it. Section 47(5) states that if a tenant does not file an Application for Dispute Resolution seeking to cancel such a notice the tenant is conclusively presumed to have accepted the end of the tenancy and must vacate the unit by the effective date of the notice.

As I have determined the tenant is not entitled to additional time to file her Application for Dispute Resolution to seek to cancel the 1 Month Notice to End Tenancy for Cause issued on December 30, 2015, I find the tenant is conclusively presumed to have accepted the end of the tenancy and she must vacate the rental unit, pursuant to Section 47(5) of the *Act*.

Section 52 of the *Act* requires that any notice to end tenancy issued by a landlord must be signed and dated by the landlord; give the address of the rental unit; state the effective date of the notice, state the grounds for ending the tenancy; and be in the approved form.

I find the 1 Month Notice to End Tenancy for Cause issued by the landlord on December 30, 2015 complies with the requirements set out in Section 52.

Section 55(1) of the *Act* states that if a tenant applies to dispute a landlord's notice to end tenancy and their Application for Dispute Resolution is dismissed or the landlord's notice is upheld the landlord must be granted an order of possession if the notice complies with all the requirements of Section 52 of the *Act*.

The parties agreed on an effective date of the order of possession to be March 24, 2016 and that the tenant must have all of her possessions out of the rental unit no later than 1:00 p.m. on that date.

Conclusion

Based on the above, I dismiss the tenant's Application for Dispute Resolution in its entirety.

I find the landlord is entitled to an order of possession effective **two days after service on the tenant**. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

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 16, 2016

Residential Tenancy Branch

