



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding COMPLETE RESIDENTIAL PROPERTY MANAGEMENT LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPL, FF, MT, CNL

Introduction

This hearing dealt with cross applications. The landlord is seeking an order of possession and the recovery of the filing fee for this application. The tenant is seeking an order to allow the tenant more time to make an application to cancel a Notice to End Tenancy, an order seeking to have the 2 Month Notice to End Tenancy for Landlords Use of Property set aside and the recovery of the filing fee. Both parties attended the hearing and were given full opportunity to present evidence and make submissions. The parties acknowledged receipt of evidence submitted by the other and gave affirmed testimony.

Preliminary Issue

The tenant sought an extension of time to file their application to cancel the notice to end tenancy as per Section 66 of the Residential Tenancy Act; however the tenant filed within 6 days of receiving the notice and did not present any further evidence as to why an extension was required. As the tenant filed within the timeline associated with a notice under Section 49 of the Act, I dismiss the tenants request for an extension.

Issues to be Decided

Is either party entitled to any of the above under the Act, regulation or tenancy agreement?

Background and Evidence

The landlords' agent gave the following testimony:

The tenancy began on or about December 1, 2014 for a fixed term of one year and is now a month to month tenancy. Rent in the amount of \$1825.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$897.50. The agent stated that the owner is moving back to the jurisdiction and wishes to move in for May 1, 2016. The agent stated that the owner gave her direction to issue a Two Month Notice to End Tenancy for Landlords' Use of Property. The agent stated that the notice was served to the tenant on February 23, 2016 by registered mail. The agent requests an order of possession.

The tenant gave the following testimony:

The tenant stated that he gave the landlord postdated cheques up to and including June 1, 2016 which is essentially a contract. The tenant stated that he will move out on June 30, 2016. The tenant stated that he doesn't think it's fair that he has to move.

Analysis

The tenant submits that they are essentially on a fixed term tenancy until the end of June 2016, even though the tenant earlier gave testimony confirming that the tenancy was month to month. The agent stated that the tenancy is a month to month and that there were no discussions about entering into an additional fixed term at any time.

The tenant has not called into question "the good faith requirement" of the landlord when issuing a notice under Section 49 of the Act; as such I fully accept that the owner will be moving into the home. In addition, I accept the agents' testimony that the tenancy is in fact on a month to month basis and I also find that the 2 Month Notice to End Tenancy for Landlords Use of Property dated February 23, 2016 with an effective date

of April 30, 2016 is valid. Based on the above facts I find that the landlord is entitled to an order of possession. The tenant must be served with the order of possession. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

The tenant has not been successful in their application.

Conclusion

The landlord is granted an order of possession. The landlord is also entitled to recovery of the \$100.00 filing fee. I order that the landlord retain \$100.00 from the security deposit in full satisfaction of the claim.

The Notice is of full effect and force.

The tenant's application is dismissed in its entirety.

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: April 18, 2016

Residential Tenancy Branch