



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

The tenant applied for an order pursuant to section 47(4) of the Residential Tenancy Act to set aside a Notice of End a Residential Tenancy May 2, 2016 and setting the end of tenancy for June 5, 2016. The tenant also applied for an order that the landlord comply with the Act, an order that the landlord provide services, and for compensation amounting to \$ 3,150.00. Only the landlord's agents attended the tele-conference hearing which lasted 12 minutes.

Issue(s) to be Decided

Is the landlord entitled to an Order for Possession?

Background and Evidence

Based on the evidence of the landlord's agents I find that the Notice to End the Tenancy was served on the tenant by handing it to her on May 2, 2016. The Notice to End a Residential Tenancy relies on sections 47(1)(h) of the Residential Tenancy Act. That section provides as follows:

Landlord's notice: cause

47 (1) A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:

- (h) the tenant
- (i) has failed to comply with a material term, and

(ii) has not corrected the situation within a reasonable time after the landlord gives written notice to do so;

(2) A notice under this section must end the tenancy effective on a date that is

(a) not earlier than one month after the date the notice is received, and

(b) the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

(3) A notice under this section must comply with section 52 *[form and content of notice to end tenancy]*.

(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.

The tenant disputed the Notice by making this application but failed to attend the hearing which lasted twelve minutes. Accordingly I dismissed the tenant's applications. I confirmed the Notice. The landlord's agents did not confirm whether the tenant paid the rent for this month but requested an Order for Possession.

Analysis

Section 55(1)(a) provides that the arbitrator must grant an order of possession of the rental unit if an arbitrator has dismissed the tenant's application pursuant to section 47 and has upheld the Notice. I dismissed the tenant's applications and upheld the Notice. The landlord requested an Order for Possession at the hearing. As a result I granted the landlord an Order for Possession effective two days after service on the tenant however, if the tenant paid the rent for July, I direct the landlord not to execute the order until two days before the last day in July 2016.

Conclusion

I have dismissed the tenant's applications herein and upheld the Notice. I granted the landlord an Order for Possession effective two days after service on the tenant unless the tenant paid the rent for July and then the order may be served no earlier than two days before the last day in July, 2016. The tenant must be served with this decision and Order as soon as possible. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court of British Columbia for enforcement. I have not made any order as to the recovery of the filing fee.

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: July 04, 2016

Residential Tenancy Branch