



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Devon Properties
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking to cancel a notice to end tenancy.

The hearing was conducted via teleconference and was attended by the tenant; her advocate and two agents for the landlord.

I 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*.

At the outset of the hearing, the tenant confirmed that she received the 1 Month Notice to End Tenancy for Cause on August 23, 2016 and that she filed her Application for Dispute Resolution on September 6, 2016 seeking to cancel the Notice.

Issue(s) to be Decided

The issues to be decided are whether the tenant is entitled to cancel a 1 Month Notice to End Tenancy for Cause, pursuant to Section 47 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*.

Analysis

Section 47(1)(d) of the *Act* allows a landlord to end a tenancy by giving notice to end the tenancy if the tenant or a person permitted on the residential 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.

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 the tenant confirmed that she received the 1 Month Notice to End Tenancy for Cause on August 23, 2016, I find that she had until September 2, 2016 to file her Application for Dispute Resolution seeking to cancel the Notice, pursuant to Section 47(4).

As the tenant did not submit her Application for Dispute Resolution until September 6, 2016 I find that the tenant has failed to submit her Application within the 10 days allowed under Section 47(4). Pursuant to Section 47(5) I find the tenant is conclusively presumed to have accepted the end of the tenancy and must vacate the rental unit. I therefore, dismiss the tenant's Application for Dispute Resolution.

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 August 19, 2016 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*.

As a result, I find the landlord is entitled to an order of possession. By agreement of both parties the order of possession will not take effect until November 15, 2016.

Conclusion

I find the landlord is entitled to an order of possession effective **November 15, 2016 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: October 31, 2016

Residential Tenancy Branch