



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

CNL, OLC, OPT

Introduction

The tenant has applied to cancel a two month Notice to end tenancy because the tenant does not qualify for a subsidized rental unit, issued on December 8, 2016, an order the landlord comply with the Act and an order of possession for the tenant.

From the evidence before me I find that the tenant applied to dispute the Notice no later than December 23, 2016.

The tenant provided affirmed testimony that on January 3, 2017 copies of the Application for Dispute Resolution and Notice of Hearing were hand-delivered to the landlords' place of business. Service occurred just after the tenant retrieved the hearing documents from the Service BC office, at approximately 1:20 p.m.

The tenant handed the documents to the receptionist. The tenant saw the receptionist give the documents to the agent for the landlord, J.B. The tenant states that the landlord said they would attend the hearing.

I note that the Notice of Hearing was issued on January 4, 2016, not on January 3, 2017. I accept that the tenant delivered the hearing documents on the date they were given by Service BC; which was likely January 4, 2017.

I find pursuant to section 89 of the Act that the tenant has served the documents no later than January 4, 2017.

After 12 minutes the landlord had not entered the hearing.

Issue(s) to be Decided

Should the a two month Notice to end tenancy for because the tenant does not qualify for a subsidized rent unit, issued on December 8, 2016, be cancelled or must the landlord be issued an order of possession?

Analysis

When a tenant disputes a Notice ending tenancy the landlord has the burden of proving the reasons given on the Notice. As the landlord failed to attend the hearing in support of the reason given on the Notice, I find that the two month two month Notice to end tenancy because the tenant does not qualify for a subsidized rental unit, issued on December 8, 2016, is cancelled.

The tenancy will continue. The tenant does not require an order of possession as the tenant possesses the rental unit.

Conclusion

Then two month Notice to end tenancy for because the tenant does not qualify for a subsidized rent unit, issued on December 8, 2016 is cancelled.

The tenancy will continue until it is ended in accordance with the Act.

The tenant possesses the rental unit and does not require an order of possession.

This decision is final and binding and 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: January 30, 2017

Residential Tenancy Branch