



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute codes OPL MT CNL FF

Introduction

This hearing was convened in response to cross-applications by the parties pursuant to the *Residential Tenancy Act* (the "Act") for Orders as follows:

Landlord:

- an order of possession for landlord's use of property pursuant to section 55;

Tenant:

- more time to make an application to cancel the landlord's 2 Month Notice to End Tenancy for Landlord's Use of Property pursuant to section 66;
- cancellation of the landlord's 2 Month Notice to End Tenancy for Landlord's Use of Property (the 2 Month Notice) pursuant to section 49;
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

The hearing was conducted by conference call. All named parties attended the hearing and were given a full opportunity to be heard, to present evidence and to make submissions.

Issues

Should the tenant's request for more time to make an application to cancel the 2 Month Notice be granted? Should the landlord's 2 Month Notice be cancelled? If not, is the landlord entitled to an order of possession?

Background and Evidence

The tenancy began on May 1, 2010 and the current monthly rent is \$1500.00 payable on the 1st day of each month.

The landlord's agent testified that on February 25, 2017 the tenants were personally served the 2 Month Notice to End Tenancy. The tenants acknowledged receiving the Notice on this date.

The tenants' application to cancel the 2 Month Notice was filed on March 21, 2017. The tenants are requesting an extension to the time limit for filing this application on the grounds that it was a busy time of the year for work as the RRSP deadline was March 1st and the tenants were then out of the province to attend a wedding and did not return until March 13, 2017.

Analysis

Pursuant to section 66 of the Act, the director may extend a time limit established by this Act only in exceptional circumstances. I find the reasons put forward by the tenants for requesting an extension are not exceptional circumstances. The tenant's request to extend a time limit to file an application is dismissed.

Pursuant to section 49 of the Act, the tenant may make a dispute application within fifteen days of receiving the 2 Month Notice. As the tenants received the 2 Month Notice on February 25, 2017, the tenants' application should have been filed on or before March 13, 2017. The tenants' application was not filed until March 21, 2017. In accordance with section 49(9) of the Act, as the tenants failed to make this application within fifteen days, the tenants are conclusively presumed to have accepted the tenancy ends on the effective date of the 2 Month Notice, May 1, 2017.

The tenants' application to cancel the 2 Month Notice is dismissed. I find the notice complies with the form and content requirements of section 52 of the Act and the landlord is entitled to an Order of Possession pursuant to section 55 of the Act.

As the tenants were not successful in this application, I find that the tenants are not entitled to recover the \$100.00 filing fee paid for this application from the landlord.

Conclusion

I grant an Order of Possession to the landlord effective **1:00 p.m. on May 1, 2017**. Should the tenants fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

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 26, 2017

Residential Tenancy Branch