



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Boulevard Estates
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MT CNC CNR

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution. A participatory hearing, via teleconference, was held on November 3, 2017. The Tenant applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- more time to make an application to cancel the Notice to End Tenancy;
- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46; and,
- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47.

The Tenant did not attend the hearing but was represented by her advocate (the "advocate"). The Landlord did not attend the hearing. The advocate testified that he hand delivered the Landlord a copy of the application package and evidence on August 17, 2017. I find the Landlord received this package on August 17, 2017.

The advocate was provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

- Should the Tenant be allowed more time to make an application to cancel the Notices to End Tenancy?
- Should the 10 Day Notice and the 1 Month Notice be cancelled?
 - If not, is the landlord entitled to an Order of Possession?

Background, Evidence, and Analysis

I note the Tenant has applied for more time to make an application to cancel both of the Notices to End Tenancy. Given that the Tenant applied late, I find the Tenant's request to have more time to apply to cancel the 10 Day Notice must be addressed before considering the remainder of the application.

The Tenant provided a written submission, which stated that she got the 10 Day Notice on July 21, 2017. The Tenant also provided a copy of the 10 Day Notice, which stated that the Landlord issued the notice because there was \$1,013.00 in unpaid rent on July 21, 2017. The effective date of the 10 Day Notice was listed as August 5, 2017.

The Tenant filed an application to cancel the 10 Day Notice on August 11, 2017, and asked for more time to make this application. Section 26 of the *Act* states that the Tenant has 5 days to pay all outstanding rent, or file an application for dispute. In consideration of the Tenant's request for more time to apply for cancellation of the 10 Day Notice, I turn to the following section of the *Act*:

Director's orders: changing time limits

66 (3) The director must not extend the time limit to make an application for dispute resolution to dispute a notice to end a tenancy beyond the effective date of the notice.

Further, I note:

Residential Tenancy Policy Guideline 36 – Extending a Time Period

Application for Arbitration Filed After Effective Date

An arbitrator may not extend the time limit to apply for arbitration to dispute a Notice to End if that application for arbitration was filed after the effective date of the Notice to End.

Given this, I find I have no authority to extend the time limit to apply for arbitration since the application date from the Tenant was after the effective date of the 10 Day Notice. As such, the Tenant's application with respect to the cancellation of the 10 Day Notice is dismissed, and I will not be addressing the merits of her application any further. Next, I turn to the following portions of the *Act*:

Under section 55 of the *Act*, when a tenant's application to cancel a Notice to end tenancy is dismissed and I am satisfied that the Notice to end tenancy complies with the requirements under section 52 regarding form and content, I must grant the landlord an order of possession. 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 (unpaid rent), and be in the approved form.

I find that the 10 Day Notice complies with the requirements of form and content.

The Landlord is entitled to an order of possession, which will be effective two (2) days after it is served on the tenant.

Given that the tenancy is ending, there is no need for me to consider the remainder of the Tenant's application.

Conclusion

The Tenant's request for more time to make an application to cancel the 10 Day Notice is dismissed. The Act prevents an Arbitrator from allowing more time for applying to dispute a notice when the application is filed after the effective date of the notice.

The landlord is granted an order of possession effective **two days 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.

The remainder of the Tenant's application is also dismissed, given that the Tenancy is ending.

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: November 03, 2017

Residential Tenancy Branch