



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 0781178 BC Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

MT; CNC

Introduction

This is the Tenant's Application for Dispute Resolution seeking an extension of time to make an application to cancel a One Month Notice to End Tenancy for Cause; and to cancel the One Month Notice to End Tenancy for Cause issued September 13, 2017 (the "Notice").

Both parties attended the Hearing, which was heard by teleconference, and gave affirmed testimony.

The Tenant testified that his advocate hand delivered the Notice of Hearing documents to the Landlord's agent, LC, "a few days after" he made the Application. The Tenant made his Application on October 25, 2017. The Landlord's agent LC disputed this and testified that he was not served until December 29, 2017. In any event, I am satisfied that the Landlord received the Notice of Hearing because the Landlord's agents knew how and when to sign into the teleconference.

Preliminary Matter

The Tenant asked that the Hearing be adjourned because his advocate was not able to attend the Hearing. The Tenant testified that his advocate told him at "8:30 last night" that the advocate was needed in Court at 10:00 a.m. and would not be able to attend the Hearing.

Before considering whether or not to adjourn the matter of whether or not the Notice should be cancelled, it is necessary to consider the Tenant's application for an

extension of time. If I find that the extension should be given, then I will consider whether or not to adjourn the Tenant's application to cancel the Notice.

The Landlord's agent LC testified that he hand delivered the Notice to the Tenant on September 13, 2017. The Tenant testified that he received the Notice on October 14, 2017, when he took it off his door.

I asked the Tenant why he waited 11 days to make his Application for Dispute Resolution. He stated that his mother was seriously ill.

Analysis

The Tenant provided no documentary evidence to support his claim that his mother was ill, or that his mother's condition prevented the Tenant from contacting another person to act on the Tenant's behalf to make his Application on time.

Section 47(5) of the Act provides that if a tenant does not make an application to cancel a notice to end tenancy for cause within 10 days after the date the tenant receives the notice, the tenant is conclusively presumed to have accepted that the tenancy ends and must vacate the rental unit by the effective date of the notice.

Section 66(1) of the Act provides that time limit established by this Act may only be extended in exceptional circumstances.

I find that the Tenant did not provide sufficient evidence of any exceptional circumstances that precluded him from making his Application to cancel the Notice within the 10 days allowed under the Act and I dismiss his application for an extension of time. The Tenant's application to cancel the Notice will not be heard.

I find that the Tenant is conclusively presumed to have accepted that the tenancy ended. I give the Tenant the benefit of the doubt with respect to the date that he received the Notice. Therefore, I find that the effective date of the Notice was November 30, 2017.

Pursuant to the provisions of Section 55 of the Act, the Landlord is hereby provided with an Order of Possession.

Conclusion

I hereby provide the Landlord with an Order of Possession effective two days after service of the Order upon the Tenant. This Order may be enforced in 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: January 15, 2018

Residential Tenancy Branch