



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, OLC, MT

Introduction

This decision pertains to the tenant's application for dispute resolution made on June 7, 2018, under the *Residential Tenancy Act* (the "Act"). The tenant seeks the following relief under the Act:

1. an order to cancel a Two Month Notice to End Tenancy for Landlord's Use of Property (the "Notice");
2. an order for the landlord to comply with the Act, regulation, or the tenancy agreement; and,
3. a request for more time to dispute the Notice after the dispute period indicated on the Notice has passed.

The tenant, the landlord, and the landlord's son attended the hearing before me and were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

The parties did not raise any issues in respect of service of documents.

While I have reviewed all oral and documentary evidence submitted, only relevant evidence pertaining to the issues of this application is considered in my decision.

I note that section 55 of the Act requires that when a tenant applies 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's notice to end tenancy complies with the Act.

Issues to be Decided

1. Is the tenant entitled to a request for more time to dispute the Notice after the dispute period indicated on the Notice has passed?
2. Is the tenant entitled to an order to cancel the Notice?
3. If the tenant is not entitled to an order to cancel the Notice, is the landlord entitled to an order of possession of the rental unit?
4. Is the tenant entitled to an order for the landlord to comply with the Act, regulation, or the tenancy agreement?

Background and Evidence

Upon reviewing the tenant's application, I turned first to the tenant's request for more time to dispute the Notice after the time to file an application for dispute had passed.

The tenant testified and confirmed that he was served, by the landlord, the Notice in-person on March 31, 2018, and that the Notice indicated an effective date (i.e., the move out date) of June 1, 2018. The tenant testified that he did not file for dispute resolution until June 7, 2018. The tenant entered into evidence a copy of the Notice.

Section 66 (3) of the Act states that an arbitrator "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." Given that the tenant did not apply for dispute resolution until after the effective date of the notice, I cannot extend the time limit in which the tenant may file an application for dispute resolution and therefore dismiss the tenant's claim, in its entirety, without leave to reapply.

I advised the tenant that as the time for making an application for dispute resolution to dispute the Notice had expired on June 1, 2018, and because he did not make an application until *after* the effective date of the Notice, that the Act prevented me from extending the time limit for him to make an application for dispute resolution.

As such, I explained to him that I would be unable to hear his other claims made in his application, as they formed part of his application for dispute resolution in respect of the Notice. The tenant indicated that he understood my explanation and reasons.

The landlord and the landlord's son agreed to extending the vacate date to September 30, 2018. The tenant was amenable to this offer by the landlord.

Analysis

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.

Having dismissed the tenant's application for dispute resolution, I must now turn to section 52 of the Act. Section 52 of the Act requires that any notice to end tenancy issued by a landlord must (1) be signed and dated by the landlord, (2) give the address of the rental unit, (3) state the effective date of the notice, (4) state the grounds for ending the tenancy, and (5) be in the approved form.

I have reviewed the Notice issued by the landlord on March 31, 2018 and find that it complies with the requirements as set out in section 52 of the Act. As such, I hereby grant the landlord an order of possession with an effective date of September 30, 2018, in accordance with the landlord's agreement to extend the effective date.

Conclusion

I dismiss the tenant's application without leave to reapply.

I grant the landlord an order of possession with an effective date of September 30, 2018. The order must be served on the tenant no later than September 28, 2018. This order may be filed in 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 Act.

Dated: July 30, 2018

Residential Tenancy Branch