



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding REKTREK RESOURCES
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

CNC

Introduction

This hearing was convened in response to the Tenant's Application for Dispute Resolution, in which the Tenant applied to set aside a Notice to End Tenancy for Cause.

The Agent for the Landlord stated that an agent for the Landlord was personally served with the Dispute Resolution package and a copy of the Notice to End Tenancy being disputed, although he cannot recall the date of service.

Issue(s) to be Decided

Should the Notice to End Tenancy for Cause, served pursuant to section 47 of the *Residential Tenancy Act (Act)*, be set aside?

Background and Evidence

The teleconference hearing was scheduled to begin at 11:00 a.m. on this date. The Agents for the Landlord dialed into the teleconference prior to the scheduled start time. By the time the teleconference was terminated at 11:11 a.m., the Tenant had not appeared.

I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the Agents for the Landlord (who had dialled in from two separate telephone numbers) and I were the only ones who had called into this teleconference.

The Agents for the Landlord were given an opportunity to present evidence that was relevant to service of this Notice to End Tenancy.

The Agent for the Landlord stated that this tenancy began prior to the Landlord

purchasing the rental unit, and that rent of \$300.00 is due by the first day of each month.

The Agent for the Landlord #2 stated that on August 31, 2018 he personally served the Tenant with the One Month Notice to End Tenancy for Cause that is the subject of these proceedings.

The One Month Notice to End Tenancy for Cause cites several reasons for ending the tenancy. The Notice declares that the rental unit must be vacated by October 07, 2018.

Analysis

Section 47 of the *Act* authorizes a landlord to end a tenancy for a variety of reasons by serving notice to end a tenancy on a date that is not earlier than one month after the date the notice is received, and the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

The undisputed evidence is that the rent is due by the first day of each month. When rent is due on the first day of each month, a One Month Notice to End Tenancy must end the tenancy on the last day of the month. I therefore find that a Notice to End Tenancy that is the subject of these proceedings must end the tenancy on the last day of a month.

In these circumstances the One Month Notice to End Tenancy declares that the tenancy will end on October 07, 2018, which is not compliant with section 47 of the *Act*. Section 53 of the *Act* stipulates that if the effective date stated in a Notice is earlier than the earliest date permitted under the legislation, the effective date is deemed to be the earliest date that complies with the legislation. Therefore I find that the effective date of this One Month Notice to End Tenancy is October 31, 2018.

I find that the Tenant failed to diligently pursue the Application for Dispute Resolution and I therefore dismiss the Application for Dispute resolution, without leave to reapply.

Section 55(1) of the *Act* stipulates that if a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if the landlord's notice to end tenancy complies with section 52 of the *Act* and the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice. As the application to set aside the One Month Notice to End Tenancy has been dismissed and the Notice to End Tenancy complies with section 52 of the *Act*, I grant

the Landlord an Order of Possession, pursuant to section 55(1) of the *Act*.

Conclusion

I grant the Landlord an Order of Possession that is effective on October 31, 2018.

This Order may be served on the Tenant, filed with the Supreme Court of British Columbia, and enforced as an Order of that Court.

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: October 22, 2018

Residential Tenancy Branch