



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute codes CNL-4M MT FFT

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- cancellation of a Four Month Notice to End Tenancy For Demolition, Renovation, Repair or Conversion of Rental Unit, pursuant to section 49 (the Four Month Notice);
- more time to make an application to cancel the landlord's Four Month Notice pursuant to section 66;
- 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 provide affirmed testimony, to present evidence and to make submissions.

Issues

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

Background and Evidence

The tenancy with the current landlord began on June 1, 2017 with a monthly rent of \$900.00 payable on the 1st day of each month.

The Four Month Notice was personally served on the tenant on March 31, 2019. The tenant acknowledged receiving the Four Month Notice on this date and also indicated in her application that it was received on this date.

The tenant's application to cancel the Four Month Notice was filed on May 23, 2019.

The tenant is requesting an extension to the time limit for filing this application. The tenant relied on her written submissions to support the request for an extension which include the following grounds:

- On May 21, 2019, the tenants learned that the alternative accommodation they were attempting to secure fell through.
- The tenants had to save up money to dispute the Four Month Notice.
- The landlord did not serve the Four Month Notice herself as indicated on the form.
- The tenants have resided in the rental unit for 9 years and they always paid their rent on time.

The landlord's agent submits that they were not served with the tenants' written submission on the extension request and in either event did not have any response to it.

Analysis

Pursuant to section 66 of the Act, the director may extend a time limit established by this Act only in exceptional circumstances.

Neither of the grounds put forth by the tenants in their written submission are exceptional circumstance. An attempt to secure alternative housing which fell through is not a valid ground for filing an application outside the required time limits. The filing fee is only \$100.00 and the tenants could have requested a fee waiver. The tenant acknowledged receiving the Four Month Notice on March 31, 2019 and the fact that the landlord may not herself served the Notice does not invalidate it. The fact that the tenants resided in the unit for 9 years and paid their rent on time is not an exceptional circumstance for not meeting the timeline to dispute such a Notice.

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 30 days of receiving the Four Month Notice. As the tenants received the Four Month Notice on March 31, 2019, the tenants' application should have been filed on or before April 30, 2019. The tenants' application was not filed until May 23, 2019. In accordance with section 49(9) of the Act, as the tenants failed to make this application within 30 days, the tenants are conclusively presumed to have accepted the tenancy ends on the effective date of the Four Month Notice, August 1, 2019.

The tenants' application to cancel the Four 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 tenant was 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 August 1, 2019. Should the tenant(s) 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: July 09, 2019

Residential Tenancy Branch