



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Capital Region Housing Corporation
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNQ MT

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution. A participatory hearing, via teleconference, was held on January 12, 2021. The Tenant applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- More time to file this application
- cancellation of the Landlord's 2 Month Notice to End Tenancy which was issued because *the Tenant Does Not Qualify for Subsidized Rental Unit* (The Notice)

Both sides were represented by an agent at the hearing. All parties provided testimony and were given a full opportunity to be heard, to present evidence and to make submissions. Both parties confirmed receipt of each other's documentary evidence.

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.

Issue(s) to be Decided

- Should the Tenant be allowed more time to make an application to cancel the Notice?
- Should the 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 the Notice. Given that the Tenant applied late, I find the Tenants' request to have more time to apply to cancel the Notice must be addressed before considering the remainder of the application.

During the hearing, the Tenant's agent stated that the Tenant received the Notice on September 25, 2020. The Landlord also provided a copy of this Notice into evidence, which specifies that the Notice was issued because the Tenant no longer qualified for the subsidized rental unit he resides in.

Section 49.1(5) of the *Act* states that a tenant may dispute a notice under this section by making an application for dispute resolution within 15 days after the date the tenant receives the notice. As the Tenant received the Notice on September 25, 2020, he had until October 10, 2020, to dispute the Notice. Given October 10, 2020, fell on a weekend, the Tenant was afforded until the first business day after this window to make his application, which would have been October 12, 2020, at the latest.

After reviewing the file, I note that the Tenant's application was not made until October 20, 2020. In this case, the Tenant did not apply within the allowable 15-day window, which lapsed around a week prior. The Tenant was significantly over the allowable time frame to dispute the Notice.

Section 66 of the *Act* states the director may extend a time limit established under the *Act* only in exceptional circumstances. Residential Tenancy Policy Guideline #36 states that "exceptional" means that an ordinary reason for a party not having complied with a particular time limit will not allow an arbitrator to extend the time limit. The Guideline goes on to say that exceptional implies that the reason for failing to do something at the time required is **very strong** and **compelling**.

On the Tenant's application, he stated he needed more time to file this application because he had issues accessing his BCeID, as he was locked out of his account and forgot his password. During the hearing, the Tenant's agent did not elaborate on this matter any further.

I have considered the Tenant's application for more time. However, it is not clear why the Tenant would not have been able to reset his password for over a week, or why he would not have been able to file a paper based, manual application, at one of the local government offices, if he was having issues with his password. There is no evidence to

show what, if any, steps the Tenant took to try and file his application on time. Ultimately, without further evidence or explanation from the Tenant on this matter, I find there is insufficient evidence to show that the Tenant's circumstances were exceptional, such that it warrants extra time to file an application for review.

As a result, I find that the Tenant is not entitled to more time to make an Application to cancel the Notice and his late Application is therefore dismissed.

As the Tenant's Application is dismissed, I must now consider if the Landlord is entitled to an Order of Possession pursuant to sections 55 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, 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, and be in the approved form.

I find that the Notice issued by the Landlord meets the requirements for form and content and the Landlord is entitled to an order of possession. The Order of Possession will be effective at 1:00 P.M. on January 31, 2021.

Conclusion

The Tenant's request for more time to make an application to cancel the Notice is dismissed. Further, the Tenant's application to cancel the Notice is also dismissed.

The landlord is granted an order of possession effective **January 31, 2021, at 1pm**. 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.

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 12, 2021