



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNE-MT, OLC, LRE, PSF

Introduction

The tenant applied to cancel a One Month Notice to End Tenancy for Cause (the “Notice”) under section 47 of the *Residential Tenancy Act* (“Act”). In addition, the tenant applied for orders under section 62 and 70 of the Act (that is, for landlord compliance, for restricting the landlord’s access to the rental unit, and for the provision of services and facilities). I note that the tenant’s application indicated that he sought additional time to dispute the Notice. This preliminary issue shall be dealt with below, at the outset.

Both parties, along with the tenant’s son-in-law and a neighbour from across the street, attended the hearing on March 9, 2021, which was held by teleconference. No issues of service were raised by the parties.

Preliminary Issue: Application for Extension of Time to Dispute the Notice

The tenant’s application indicated, and the landlord’s testimony corroborated, that the Notice was served in-person on the tenant on November 27, 2020. A copy of the Notice was in evidence, and page one of the Notice clearly warns that if the tenant intended to dispute the Notice that he is required to make an application for dispute resolution within ten days of receiving the Notice. The tenant did not file an application for dispute resolution until December 11, 2020, a full fourteen days after the date on which he received the Notice.

The warning on page one of the Notice reflects section 47(4) of the Act which states:

A tenant may dispute a notice under this section by making an application for dispute resolution within 10 days after the date the tenant receives the notice.

If a tenant does not make an application for dispute resolution within ten days after the date that they received the notice, then section 47(5) of the Act is activated:

If a tenant who has received a notice under this section does not make an application for dispute resolution in accordance with subsection (4), the tenant

- (a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and
- (b) must vacate the rental unit by that date.

In other words, the tenant's failure to dispute the Notice has resulted in the Notice going into effect. That said, the tenant has applied to extend the deadline by which he was permitted to dispute the Notice.

Section 66(1) of the Act addresses the authority to extend a time limit under the Act:

The director [that is, the arbitrator] may extend a time limit established by this Act only in exceptional circumstances [. . .]

The tenant did not testify or otherwise make any oral submissions as to why he filed late. However, the tenant's application includes a rather nonsensical statement about the landlord receiving rent. Above that entry, though, the tenant wrote, "I'm blind and have no ride to do things." These statements were in reference to a dispute of a 10 Day Notice to End Tenancy for Unpaid Rent, which was not an issue in this present dispute. Further down the application form, the tenant wrote, "I'm filing on time," in response to the form's printed question "Please describe why you are filing after the dispute period:".

The tenant referred to himself as blind, whereas the landlord explained that the tenant was only blind in one eye. In any event, while I cannot put words in the tenant's mouth, it is possible that the tenant *might* have been claiming that he was unable to file the application for dispute resolution late due to his blindness and inability to drive.

Yet, the tenant and his son-in-law provided lengthy testimony that the tenant is frequently visited and helped by many friends. "Friends help me because I'm blind," he remarked. His son-in-law also testified that "we take care of [tenant] a lot of times." Even the neighbour from across the street attended the hearing because she "came to help."

Based on the lack of submissions at the hearing, based on the explanation as provided in the tenant's application, and taking into account that the tenant has for all intents and purposes a strong network of friends and family, I am unable to find that there existed exceptional circumstances that warrant my extending the time limit in which to dispute the Notice.

As such, I do not grant an extension of the time in which the Notice may be disputed and accordingly, section 47(5) of the Act shall be in effect. As the Notice was not disputed within the required timeline, I dismiss the tenant's application. Section 55(1) of the Act requires that I grant the landlord an order of possession when I dismiss a tenant's application to cancel the Notice.

Having dismissed the tenant's application I thus grant to the landlord an order of possession of the rental unit. An order of possession is issued in conjunction with this Decision, to the landlord. The landlord must serve the order of possession on the tenant in order for it to be enforceable.

As the tenancy has ended, the remainder of the tenant's claims are moot, and they are dismissed without leave to reapply.

Conclusion

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

I grant the landlord an order of possession, which must be served on the tenant and which is effective two (2) days from the date of service. This order may be filed in, and enforced as an order of, the Supreme Court of British Columbia.

This decision is final and binding, except where otherwise permitted by the Act, and is made on authority delegated to me under section 9.1(1) of the Act.

Dated: March 9, 2021

Residential Tenancy Branch