



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CONNECTIVE SUPPORT SOCIETY
KAMLOOPS and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC 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 November 3, 2022. The Tenant applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- cancellation of the Landlord's 1-Month Notice to End Tenancy (the Notice); and,
- more time to make an application to cancel the Notice.

The Landlord and the Tenant attended the hearing. All parties provided affirmed testimony and were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. The Landlord confirmed receipt of the Tenant's Notice of Dispute Resolution Proceeding package. The Tenant stated he did not receive the Landlord's evidence package. However, the Landlord provided registered mail tracking information showing this package was sent to the Tenant on October 19, 2022. Pursuant to section 90 of the Act, I find the Tenant is deemed to have received this package 5 days after it was sent. I find both parties sufficiently served each other for the purposes of this proceeding.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence submitted in accordance with the rules of procedure, and evidence that is relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

- Should the Tenant be allowed more time to make an application to cancel the Notice?
- If so, should the Notice be cancelled?
 - 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 Tenant's 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 stated that he received the Notice on August 18, 2022. The Tenant also provided a copy of this Notice into evidence, which lists the following ground for ending the tenancy:

Tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord.

Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The Landlord spoke to several incidents where the Tenant was aggressive and hostile with other Tenants in the building.

Section 47 of the *Act* states that 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. As the Tenant received the Notice on August 18, 2022, he had until August 28, 2022, to dispute the Notice.

After reviewing the file, I note that the Tenants' application was not made until September 16, 2022. In this case, the Tenant did not apply within the allowable 10 day window, which lapsed on August 28, 2022. The Tenant was 19 days late.

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**.

At the outset of the hearing, the Tenant was asked to present why he required more time to file this application. The Tenant stated that he simply did not have enough time to file. He further stated that he is a 55-year-old male on a limited income. The Tenant also pointed out that he needed more time because there is a housing shortage currently, given there are many students also looking for housing. The Tenant stated that he applied for more time to file this application because he needed more time to look for alternative housing options. The Tenant did not speak to any other issues regarding his need for more time to file this application. The Tenant generally referred to anxiety and PTSD. However, he did not sufficiently explain what impact this had on his ability to file within the allowable time frame.

I have considered the Tenant's statements on this matter. However, I do not find the Tenant has sufficiently demonstrated that his 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 in its entirety.

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 November 30, 2022.

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 **November 30, 2022, 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: November 4, 2022

Residential Tenancy Branch