



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute codes CNC MT FF

Introduction

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

- more time to make an application to cancel the landlord's One Month Notice to End Tenancy for Cause (the "One Month Notice") pursuant to section 66;
- cancellation of a One Month Notice to End Tenancy For Cause, pursuant to section 47.

The hearing was conducted by conference call. All named parties attended the hearing and were given a full opportunity to be heard, to present evidence and to make submissions. No issues were raised with respect to the service of the application and evidence submissions on file.

Issues

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

Background and Evidence

The tenancy for this affordable housing unit began on December 1, 2020.

On March 2, 2023 the landlord served the tenant with the One Month Notice by placing a copy in the tenant's mailbox.

The tenant's application to cancel the One Month Notice was filed on March 24, 2023.

The tenant submits she has a background of mental health issues. The tenant submits that on March 2, 2023 she was in a psychotic delusional state and was admitted to the hospital. This happened four days after an incident at the rental property for which she was issued the One Month Notice. The tenant had falsely pulled the fire alarm in the building.

The tenant did not provide any documented evidence of the duration of her hospitalization. The tenant provided a letter from a support worker which states she attended the emergency department at St. Paul's hospital on March 2, 2023 and was subsequently admitted to the in-patient psychiatric unit for the period of March 18, 2023 to May 16, 2023. The tenant testified that after the initial March 2, 2023 visit to the hospital she went AWOL from the hospital and returned on March 18, 2023. The tenant testified that she was very ill and confused and did not return to her unit during this period. The tenant claims she did not receive the One Month Notice until March 15, 2023 at which time she sought assistance from support workers to file the application.

In reply, the landlord submits that the tenant filed her application late and the support letter clearly states that the tenant was not admitted to the hospital until March 18, 2023.

Analysis

Pursuant to section 66 of the Act, the director may extend a time limit established by this Act only in exceptional circumstances. Under subsection 66(3), the director has no authority to extend the time limit to make an application to dispute a notice to end a tenancy beyond the effective date of the notice.

Residential Tenancy Policy Guideline, "36. *Extending a Time Period*" provides the following guidance:

The word "exceptional" means that an ordinary reason for a party not having complied with a particular time limit will not allow an arbitrator to extend that time limit. The word exceptional implies that the reason for failing to do something at the time required is strong and compelling. Furthermore, as one Court noted, a "reason" without any force of persuasion is merely an excuse. Thus, the party putting forward said "reason" must have some persuasive evidence to support the truthfulness of what is said.

I find the tenant failed to provide sufficient evidence that she did not receive the One Month Notice until March 15, 2023. The tenant's own evidence in the form of the support letter indicates that although she attended the hospital on March 2, 2023, she was admitted to the in-patient care until March 18, 2023. I do not find the tenant's testimony credible that she was AWOL for this entire period and did not return to the rental unit. The tenant testified she was AWOL for the entire period which does not explain how she could have received or became aware of the One Month Notice on March 15, 2023. Although I am sympathetic with the tenant's mental health issues, I find these are not exceptional circumstances which would have prevented the tenant from seeking assistance to file the application on time.

The tenant's request to extend a time limit to file an application is dismissed.

Pursuant to section 47(4) of the *Act*, the tenant may make a dispute application within ten days of receiving the One Month Notice. I find the tenant to be deemed served with the One Month Notice on March 5, 2023, three days after it was placed in her mailbox. The tenant's application should have been filed on or before March 15, 2023. The tenant's application was not filed until March 24, 2023. In accordance with section 47(5) of the *Act*, as the tenant failed to take this action within ten days, the tenant is conclusively presumed to have accepted the tenancy ends on the effective date of the One Month Notice, April 30, 2023.

The tenant's application to cancel the One Month Notice is dismissed. I find that the One Month Notice complies with the requirements of Section 52 of the *Act*, accordingly, the landlord is granted an Order of Possession pursuant to section 55 of the *Act*.

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Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant. Should the tenant 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 12, 2023

Residential Tenancy Branch