



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

Decision

Dispute Codes: MT, CNC / CNR, OPC / OPR, FF

Introduction

This hearing dealt with two applications: 1) from the landlords for an order of possession and recovery of the filing fee; 2) from the tenant for more time to make an application to cancel a notice to end tenancy, cancellation of a notice to end tenancy for cause and cancellation of notice to end tenancy for unpaid rent. Both parties participated in the hearing and gave affirmed testimony.

Issues to be decided

- Whether the parties are entitled to any or all of the above

Background and Evidence

A written residential tenancy agreement was not in evidence for this tenancy which is understood to have begun on October 1, 2008. Rent in the amount of \$249.00 is payable on the first day of the month, and a security deposit of \$125.00 was collected at the start of tenancy.

The landlords issued a 1 month notice to end tenancy for cause dated May 23, 2009. Subsequently, the landlords issued a 10 day notice to end tenancy for unpaid rent dated June 1, 2009, and a second 10 day notice to end tenancy for unpaid rent dated July 2, 2009. Copies of all of the above notices were submitted into evidence.

Analysis

Based on the documentary evidence and testimony of the parties, I find that the tenant was served with a 1 month notice to end tenancy for cause dated May 23, 2009. The tenant did not apply to dispute the notice within 10 days of receiving it. The tenant is

therefore conclusively presumed under section 47(5) of the Act to have accepted that the tenancy ended on the effective date of the notice. Pursuant to section 53 of the Act which speaks to **Incorrect effective dates automatically changed**, the effective date of the notice is June 30, 2009.

As for the two 10 day notices to end tenancy, while rent is currently paid up to the end of July 2009, the tenant did not pay the outstanding rent for either June or July within 5 days after being served with the respective notices.

The tenant submitted no evidence of exceptional circumstances in support of his application for more time to dispute the above notice(s).

Pursuant to all of the above, I find that the landlords are entitled to an order of possession. I dismiss the tenant's application for more time to apply to cancel notice(s) to end tenancy and cancellation of the notice(s).

As the landlords have succeeded in their application, I find they are entitled to recovery of the filing fee. Accordingly, I grant the landlords a monetary order under section 67 of the Act for \$50.00.

Conclusion

I hereby issue an order of possession in favour of the landlords effective not later than **two (2) days** after service upon the tenant. This order must be served on the tenant. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

Pursuant to section 67 of the Act, I hereby issue a monetary order in favour of the landlords in the amount of **\$50.00**. This order may be served on the tenant, filed in the Small Claims Court and enforced as an order of that Court.

DATE: July 22, 2009

Dispute Resolution Officer