



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC

Introduction

This matter dealt with an application by the Landlord to end the tenancy and for an Order of Possession.

The Landlord said he served the Tenant with the Application and Notice of Hearing (the "hearing package") by registered mail on June 4, 2012. Based on the evidence of the Landlord, I find that the Tenant was served with the Landlord's hearing package as required by s. 89 of the Act and the hearing proceeded with both the Landlord and the Tenant in attendance.

Issues(s) to be Decided

1. Does the Landlord have grounds to end the tenancy?

Background and Evidence

This tenancy started on February 1, 2011 as a month to month tenancy. Rent is \$470.00 per month payable in advance of the 1st day of each month. The Tenant paid a partial security deposit of \$130.00 on February 1, 2011.

The Landlord said he issued a 1 Month Notice to End Tenancy for Cause dated April 17, 2012 with an effective vacancy date of May 31, 2012. The Landlord continued to say he issued the Notice because the Tenant had an additional occupant in the rental unit and the tenancy agreement did not allow for more than one occupant (the Tenant) in the unit. The Tenant and the Tenant's Advocate agreed the Tenant had allowed an additional occupant in the rental unit. The Tenant said the occupant would be moved out by June 26 or 27, 2012. The Tenant's Advocate continued to say the Tenant has not made an application to dispute the Notice to End Tenancy as the Tenant said he did not receive the 1 Month Notice to End Tenancy for Cause dated April 17, 2012. The Landlord said he tried to served the 1 Month Notice to End the Tenancy to the Tenant in person on April 17, 2012, but the Tenant refused to accept the Notice so the Landlord said he sent it to the Tenant by registered mail. The Landlord included the Canada postal receipt and tracking information of the service of the Notice in his evidence.

The Landlord requested to be awarded an Order of Possession with an effective vacancy date of July 15, 2012, if his application is successful. The Landlord said he understands that the Tenant has some health issues and this extra time should help the Tenant with those health issues and allow the Tenant time to find new accommodations. The Landlord also said they need time to prepare the rental unit to rent to a new tenant and a vacancy date of July 15, 2012 would achieve this.

The Tenant's Advocate said the Tenant has a medical procedure being done on July 5, 2012 and his health is poor so it takes the Tenant more time to do things and to recover from medical procedure than other people. As a result the Tenant's Advocate said the Tenant is requesting the Order of Possession be made for July 31, 2012. This would allow time for the Tenant to recuperate and find a new rental unit to move into. The Tenant's Advocate said the Tenant is will to pay the rent and there is no damage to the rental unit so preparing the unit for the next tenant should not be difficult.

The Tenant's Advocate closed their remarks by saying the issue is the timing for the end of the tenancy and they are requesting the tenancy to end on July 31, 2012 for health reasons.

The Landlord's Advocate closed their remarks by saying they have given the Tenant some extra time for his health issues, but they need to prepare the unit for the next tenant. The Landlord requested the tenancy end on July 15, 2012.

Analysis

Section 47(c) says a landlord may end a tenancy by giving a notice to end tenancy if the Tenant has an unreasonable number of occupants in a rental unit.

The Landlord provided testimony and written evidence that proved the Tenant had an additional occupant living in the rental unit. The Tenant said he did have an additional occupant living in the rental unit and he did not dispute the Landlord's claim. As well the Tenant agreed to end the tenancy. I find for the Landlord and grant an Order of Possession.

The Tenant requested July 31, 2012 to be the end of the tenancy so that he could deal with his health issues. The Landlord requested the tenancy end on July 15, 2012 so that he could prepare the rental unit rent for the next tenant. It appears that the Landlord recognizes and has showed concern for the Tenants health situation as the Landlord offered some additional time to end the tenancy by requesting July 15, 2012 as the effective date of the Order of Possession. Further the Landlord said there are some practical issues of preparing the unit for the next tenant which take time and that is also why he has requested July 15, 2012 for the Order of Possession. The Tenant's Advocate said there are no damages to the unit. The Landlord is not claiming damages to the unit nor has he suggested that there may be damage to the unit. Therefore as there are some difficult health issues that require time and that the time required to

prepare the unit may not be extensive, I find that the effective date for the Order of Possession will be July 20, 2012, which affords the Tenant a few more days for recover and allows the Landlord 10 full days to prepare the unit for the next tenant.

Conclusion

An Order of Possession effective July 20, 2012 has been issued to the Landlord. A copy of the Order must be served on the Tenant: the Order of Possession may be enforced in 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*.

Residential Tenancy Branch