

DECISION

Dispute Codes CNC

Introduction

This is an application filed by the Tenant to cancel a notice to end tenancy issued for cause.

Both parties attended the hearing by conference call and gave testimony. Both parties have submitted almost identical documentary evidence. As both have attended and acknowledged receiving the notice of hearing and evidence packages submitted, I am satisfied that both parties have been properly served under the Act.

At the beginning of the hearing it was clarified with both parties that the Tenant seeks an order to cancel the 1 month notice to end tenancy issued for cause and the Landlord seeks enforcement of the notice to end the tenancy.

Issue(s) to be Decided

Is the Tenant entitled to an order cancelling the notice to end tenancy?
Is the Landlord entitled to an order of possession?

Background, Evidence and Analysis

Both parties agreed that the Tenant was served a 1 month notice to end tenancy issued for cause dated July 10, 2012. The stated effective date of the notice is August 31, 2012. The stated reason for cause is "Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so".

Neither party has submitted a copy of the signed tenancy agreement, but both parties agreed that a tenancy agreement exists and that a condition of that tenancy in section 9 (d) states, "The Tenancy agreement is ended if: (i) The number of persons occupying the residential premises is fewer than the number of persons set according to the occupancy standards determined by BC Housing/CMHC (National Occupancy Standards). Both parties have also submitted a copy of the National Occupancy Standards.

The Landlord states that the Tenant does not meet the standards set for her current tenancy. The Tenant has confirmed in her direct testimony that she does not meet these standards, but is currently in the process of trying to meet them with having her daughter move back into the unit with her. The Tenant states that this should be accomplished within the next 6 months. Both parties agreed that the Landlord sent a letter in December of 2011 to have the Tenant correct this in order to meet the occupancy standards. This is outlined in the Landlord's evidence in letters to the Tenant dated December 8, 2011, December 14, 2011, May 17, 2012, June 4, 2012 and June 12, 2012. The Landlord gave notice of their intentions in these letters as well as the letter dated July 10, 2012 along with the 1 month notice to end tenancy. The Tenant has not disputed any of these.

I find based upon the documentary evidence and the direct testimony of both parties that the Tenant has failed in her application to cancel the notice dated July 10, 2012. The notice is upheld. The Tenant's application is dismissed. The Landlord's request for enforcement of the notice is granted. The Landlord is granted an order of possession. The Tenant must be served with the order of possession. 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.

Conclusion

The Tenant's application is dismissed.

The Landlord's request for an order of possession is granted.

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: August 13, 2012.

Residential Tenancy Branch