



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNC / OPC

Introduction

This hearing was scheduled in response to the tenant's application to cancel a 1 month notice to end tenancy for cause. Both parties participated in the hearing and gave affirmed testimony. During the hearing the landlord confirmed the desire to obtain an order of possession in the event the tenant's application does not succeed.

Issue(s) to be Decided

Whether either party is entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

Pursuant to a written tenancy agreement, the fixed term of tenancy is from April 1, 2012 to March 31, 2013. Monthly rent of \$1,800.00 is due and payable in advance on the first day of each month, and a security deposit of \$900.00 was collected.

The landlord issued a 1 month notice to end tenancy for cause dated August 23, 2012. The tenant filed an application to dispute the notice on September 4, 2012. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenant must vacate the unit is September 30, 2012. The reasons shown on the notice for its issuance are as follows:

Tenant is repeatedly late paying rent

Tenant or a person permitted on the property by the tenant has:

put the landlord's property at significant risk

The landlord testified that rent has been paid late (after the first day of the month) for April and July, and that no rent has been paid for August, September or October 2012. The tenant did not dispute this.

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca

Residential Tenancy Policy Guideline # 38 speaks to “Repeated Late Payment of Rent,” and provides in part as follows:

Three late payments are the minimum number sufficient to justify a notice under these provisions.

Section 55 of the Act speaks to **Order of possession for the landlord**, and provides in part:

55(1) If a tenant makes an application for dispute resolution to dispute a landlord’s notice to end a tenancy, the director must grant an order of possession of the rental unit to the landlord if, at the time scheduled for the hearing,

- (a) the landlord makes an oral request for an order of possession, and
- (b) the director dismisses the tenant’s application or upholds the landlord’s notice.

Based on the documentary evidence and testimony, I find that the tenant has been late in his payment of rent on at least three occasions since tenancy began on April 1, 2012. Accordingly, the 1 month notice to end tenancy which was issued on the basis that the “tenant is repeatedly late paying rent” is hereby upheld. Further, following from the landlord’s oral request during the hearing, I find that the landlord has established entitlement to an order of possession.

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **two (2) days** after service on 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.

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: October 09, 2012.

Residential Tenancy Branch