



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, OLC, ERP, RP, O

Introduction

This hearing dealt with the tenants' Application for Dispute Resolution seeking to cancel a notice to end tenancy and to obtain orders to have the landlord complete repairs and emergency repairs.

The hearing was conducted via teleconference and was attended by the landlord and their agent.

The landlord and their agent attended the hearing and requested that the respondent name be corrected to the correct landlord name. I have amended the Application to include the correct landlord name.

During the hearing, the landlord verbally requested an order of possession should the tenants be unsuccessful in their Application.

Issue(s) to be Decided

The issues to be decided are whether the tenants are entitled to cancel a 1 Month Notice to End Tenancy for Cause; to an order to have the landlord make repairs and emergency repairs, pursuant to Sections 47 of the *Residential Tenancy Act (Act)*.

If the tenants are unsuccessful in their Application seeking to cancel the 1 Month Notice to End Tenancy for Cause it must be decided if the landlord is entitled to an order of possession, pursuant to Section 55 of the *Act*.

Analysis

The tenants had filed an Application for Dispute Resolution seeking to cancel a 1 Month Notice to End Tenancy for Cause issued by the landlord's agent on April 5, 2013 with an effective date of April 30, 2013 citing the tenants or a person permitted on the property by the tenants have significantly interfered with or unreasonably disturbed another occupant or the landlord; seriously jeopardized the health or safety or lawful right of another occupant or the landlord; the tenants have engaged in illegal activity that has, or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being

of another occupant or the landlord and jeopardize a lawful right or interest of another occupant or the landlord.

As neither of the tenants attended the hearing I dismiss their Application without leave to reapply.

Section 55(1) of the *Act* states if a tenant makes an Application for Dispute Resolution to dispute a landlord's notice to end tenancy, the director must grant an order of possession to the landlord if, the landlord makes an oral request for an order of possession and the director dismisses the tenant's Application or upholds the landlord's notice.

As I have dismissed the tenants' Application seeking to cancel the 1 Month Notice and the landlord had verbally requested an order of possession I find the landlord is entitled to an order of possession. However Section 53 of the *Act* states if a landlord or tenant gives notice to end a tenancy with an effective date that does not comply with the requirements set out in the relevant section the party is seeking to end the tenancy under the effective date is deemed to be changed to the earliest date permitted under the applicable Section.

As the landlord issued the Notice on April 5, 2013, the earliest it could be effective is May 31, 2013 and in accordance with Section 53 I amend the effective date of the Notice issued on April 5, 2013 to be May 31, 2013.

Conclusion

I find the landlord is entitled to an order of possession effective **May 31, 2013 after service on the tenants**. This order must be served on the tenants. If the tenants fail to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be 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: May 06, 2013

Residential Tenancy Branch

