



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, MT

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the Act) for:

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47; and
- more time to make an application to cancel the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 66.

Both parties attended the hearing and were given a full opportunity to make submissions and arguments. The parties gave affirmed testimony.

Preliminary Issue- More time to file an application pursuant to section 66 of the Act

The tenant requests more time to file an application to dispute a notice to end tenancy. The tenant acknowledged that he had been served a One Month Notice to End Tenancy for Cause on September 30, 2020, however, the tenant did not file to dispute the notice until October 22, 2020; 12 days after the limitation period per section 47 of the Act.

Section 66 of the Act addresses the issue as follows.

Director's orders: changing time limits

66 (1)The director may extend a time limit established by this Act **only in exceptional circumstances**, other than as provided by section 59 (3) [*starting proceedings*] or 81 (4) [*decision on application for review*].

Despite the fact that the tenant called in eight minutes late to the hearing that he initiated, he was given 30 uninterrupted minutes to explain why he did not file an application within the legislated timeline. The tenant testified that he did not know the

process to dispute a notice. The tenant then testified that he filed an application “about week after receiving the notice”. The tenant then offered another version that the landlord had agreed to withdraw the notice. The tenant then provided yet another version of events that stated that if he apologized to all the other tenants he would not have to move out. The tenant’s testimony was inconsistent, contradictory and changed each time he was asked a question. I find the tenants testimony to be unreliable. The tenant did not provide sufficient evidence to demonstrate “exceptional circumstances”, accordingly; I dismiss the tenants request to be given more time to dispute the notice.

As I have found that the tenant is not entitled to an extension of time to file an application to dispute a notice to end tenancy, section 47(5) of the *Act* confirms that failure to dispute the notice in the required time period results in the conclusive presumption that the tenant has accepted the tenancy ends on the effective date of the notice.

In this case, the landlord and tenant agreed and confirmed that the One Month Notice to End Tenancy for Cause was served and received by the tenant on September 30, 2020. Furthermore, the tenant did not file an application to dispute the notice until October 22, 2020; 23 days after receiving the notice. Accordingly, I find that the tenant was outside of the legislated timeline to dispute the notice and are conclusively presumed to have accepted that the tenancy ended on the effective date of October 31, 2020.

Based on the above, I hereby dismiss the tenant’s application to set aside the notice without leave to reapply.

When a tenant’s application to cancel a notice to end the tenancy is dismissed and the notice complies with section 52 of the *Act*, section 55 of the *Act* requires that I grant an order of possession. I have examined the One Month Notice to End Tenancy for Cause dated September 30, 2020 with an effective date of October 31, 2020 and find that it complies with section 52 of the *Act*. Therefore, I grant the landlord an order of possession pursuant to section 55 of the *Act*. The order of possession may be filed in and enforced as an order of the Supreme Court of British Columbia.

Conclusion

The tenant’s application is dismissed in its entirety without leave to reapply. The landlord is granted an order of possession. The tenancy is terminated.

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: January 15, 2021

Residential Tenancy Branch