

DECISION

Dispute Codes: MT, CNC, FF

This hearing dealt with the tenant's application to 1) allow her more time to make an application to cancel a notice to end tenancy and, 2) cancel a notice to end tenancy for cause.

The landlord said that he served the tenant in person, a notice to end tenancy on September 2, 2008. During the hearing, the tenant acknowledged receiving this notice but said that she received it on September 5.

Based on the tenant's receipt of the notice on September 5, the tenant did not file her application for dispute resolution to dispute this notice until 26 days later on October 1. When asked why she had failed to make an application for dispute resolution within the prescribed time frame of 10 days, the tenant gave the following reasons. She had two children to look after and she could not get a ride from her uncle into the Residential Tenancy Branch until October 1. Furthermore, her husband was at work from 8 am to 4 pm and she had no friends to help look after her children.

During hearing, when asked which days of the week her husband worked, the tenant replied that he worked daily sometimes on the weekends. When asked if her husband worked 7 days a week for the period from September 5 until October 1, the tenant became hesitant and evasive and replied that it depended on what type of job he had. Based on the above evidence, I find implausible that the tenant's husband could not have assisted in the process in filing an application for dispute resolution.

When asked she knew how to use a computer as she could file an application for dispute resolution online, she became hesitant. She replied that she did know how to use the computer but she was not good at it and she was uncertain as to whether she would know how to file online. When asked if her husband knew how to use a

computer, the tenant became evasive and said she did not know if he knew how to use it. Later, she changed her testimony to state that her husband did know how to use a computer but she was not certain how skilled he was in using it. She did not provide any explanation for this inconsistency.

When asked if there was either a library or internet café close by whereas she could access a computer, the tenant replied there was not. Later, the landlord pointed out that there is a public library situated at 45th and Rupert within walking distance from the rental property. The tenant did not provide any explanation for this inconsistency.

Based on all of the above evidence, I do not find any of the reasons given by the tenant to be serious and compelling. I am therefore dismissing the tenant's application to allow her more time to make an application to cancel a notice to end tenancy.

Having made this finding, I find that the tenant has not filed the application for dispute resolution within the prescribed period of 10 days and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice.

Based on the above facts, I find that the landlord is entitled to an order of possession. Should the tenant failed 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.

I also dismiss the tenant's application to recover filing fee from the landlord for the cost of this application.

Dated October 29, 2008.