



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

DECISION

Dispute Codes: CNC

Introduction

This matter dealt with an application by the tenant to cancel a notice to end tenancy for cause as issued by the landlord on September 5, 2008. The notice to end tenancy list the reason for ending the tenancy is that the tenant has repeatedly been late in paying the rent. The effective date of the tenancy ending as per the notice is set to be October 31, 2008.

Both parties were present at the hearing, which was held via teleconference. I advised both parties that I would consider their oral testimony as well as any documentary evidence that had been submitted prior to the hearing date.

At the hearing the landlord requested an order of possession.

Issue(s) to be Decided

Is the notice as issued by the landlord valid in its reason of the repeated late payments of rent?

Is the landlord entitled to an order of possession?

Background and Evidence

The evidence of the landlord is that in a previous hearing held on August 25, 2008 that the Dispute Resolution Officer found that the tenant had been repeatedly late in paying

rent for the months of February, June and July. I have read that decision and while I am not bound by that finding, I do concur based upon the evidence before me that the tenant has been late in paying rent on at least three occasions prior to the issuance of the current notice of September 5, 2008.

The previous Dispute Resolution Officer at the hearing declined to issue an order of possession at that time due to the possibility that the tenant may have not understood the requirements of how she was deposit her rent payments. The tenant was advised in that decision that further late payments may result in the landlord issuing a further notice, which has now occurred.

The tenant agreed at the hearing with the landlord's evidence that her rent payment for September 2008 resulted in a notice from the landlord's bank that the cheque was returned for insufficient funds. The tenant then made a deposit on September 5, 2008 to pay the rent for September.

Analysis

I find that the tenant has been late in paying the rent on at least four occasions and that the landlord's notice as issued is valid.

Conclusion

I find that the landlord is entitled to an order of possession. I order that the tenancy will end effective October 31, 2008 and that the tenant must vacate the premises not later than 1:00 pm on that date. The tenant must be served with the attached order.

In the event that the tenant fails to comply, this order may be filed with and enforced as an order of the Supreme Court of British Columbia.

Dated: October 8, 2008

