



Dispute Resolution Services

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

Decision

Dispute Codes: OPR

Introduction

This hearing dealt with an application by the landlord for an order of possession. Both parties participated in the hearing and each gave affirmed testimony.

Issue to be Decided

- Whether the landlord is entitled to an order of possession

Background and Evidence

The month-to-month tenancy began on November 1, 2007. The tenant's portion of the subsidized rent, including cablevision, is \$260.00 per month which is payable in advance on the first day of each month. The landlord collected a security deposit from the tenant in the amount of \$383.50. The tenant failed to pay the full amount of rent / utilities due on November 1, 2008. Specifically, \$160.00 remained outstanding. On November 5, 2008 the landlord served the tenant with a 10 day notice to end tenancy for unpaid rent or utilities. Subsequently, the tenant paid the balance of rent due of \$160.00 on November 25, 2008. The tenant has paid all rent due for December 2008.

The landlord submitted into evidence a copy of the 10 day notice to end tenancy dated November 5, 2008, which was served by posting on the tenant's door that same day.

Analysis

Based on the documentary evidence and testimony of the parties, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent or utilities. The tenant

did not pay the outstanding rent within 5 days of receiving the notice and did not apply to dispute the notice. The tenant is therefore conclusively presumed under section 46(5) of the *Act* 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.

Conclusion

I hereby issue an order of possession in favour of the landlord effective on or before **1:00 pm., December 31, 2008**. 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.

DATE: December 12, 2008

Dispute Resolution Officer