



Dispute Resolution Services

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

Decision

Dispute Codes: CNC MNR OPC OPR FF

Introduction

This hearing dealt with two applications: 1) from the tenant for cancellation of a 1 month notice to end tenancy for cause; and 2) from the landlord for an order of possession, for a monetary order for unpaid rent / NSF fees, and for recovery of the filing fee for this application. Both parties participated in the hearing and gave affirmed testimony.

Issues to be Decided

- Whether the tenant is entitled to cancellation of a 1 month notice to end tenancy
- Whether the landlord is entitled to an order of possession and a monetary order

Background and Evidence

Pursuant to a written tenancy agreement, the month-to-month tenancy began in June 2008 and rent of \$210.00 is payable in advance on the first day of each month.

The tenant failed to pay rent from July to December 2008. The landlord served the tenant with a 10 day notice to end tenancy for unpaid rent. The landlord also served the tenant with a 1 month notice to end tenancy for cause, citing the tenant's repeatedly late payment of rent. The tenant further failed to pay rent for the month of January 2009.

The landlord submitted into evidence a copy of the 10 day notice and the 1 month notice, both dated December 9, 2008 which were served by registered mail, regular mail and in person. The tenant acknowledged having taken delivery of both notices and did not dispute that he continues to be in arrears with payment of rent.

Analysis

Based on the documentary evidence and testimony of the parties, I find that the tenant was served with both, a 10 day notice and a 1 month notice to end tenancy.

As for the 10 day notice, the tenant did not pay the outstanding rent within 5 days of receiving it. Neither did the tenant dispute that he was in arrears with rent or argue that there was any unfair process associated with the issuance of the notice. I therefore find that tenancy ended on the effective date of the notice which was December 31, 2008, and that the landlord is entitled to an order of possession.

As for the 1 month notice, once again the tenant did not dispute that there was a pattern of repeatedly late payment of rent. Neither did the tenant suggest there was any unfair process in the landlord's issuance of the notice. The tenant's explanation for the pattern of late payment of rent revolved around difficulties with employment and cash flow.

As for the monetary order, I find the landlord has established a claim for \$1,550.00. This is comprised of \$1,470.00 for seven months of unpaid rent (7 x \$210.00), and \$80.00 in total for four separate fees assessed for NSF cheques (4 x \$20.00). The landlord is also entitled to recovery of the \$50.00 filing fee (total claim: \$1,600.00). I therefore grant the landlord a monetary order under section 60 of the *Act* for \$1,600.00.

Conclusion

I dismiss the tenant's application for cancellation of the 1 month notice to end tenancy for cause, and I hereby issue an order of possession in favour of the landlord effective not later than **two (2) days** after service upon the tenant. 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.

I hereby grant the landlord a monetary order under section 60 of the *Act* for **\$1,600.00**. This order may be served on the tenant, filed in the Small Claims Court and enforced as an order of that Court.

Dated: January 20, 2009