



Dispute Resolution Services

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

DECISION AND REASONS

Dispute Codes: OPR & FF

Introduction:

This hearing dealt with an application by the landlord for an Order of Possession due to non-payment of rent. Both parties appeared for the hearing and were provided the opportunity to be heard and respond to the evidence of the other party.

Issue to be Determined:

Is the landlord entitled to an Order of Possession due to non-payment of rent?

Background and Evidence:

This tenancy began on December 1, 2005, although the tenants occupied the rental unit on a pro-rated basis on November 18, 2005. The monthly market rent for the rental unit is \$1,650.00 and the tenants qualified for a rent subsidy reducing the rent to \$428.00 a month. No security deposit was required by the landlord.

The tenants no longer qualified for a rent subsidy, according to the landlord, effective December 1, 2008 and the tenants have failed to pay rent for December 2008 and January and February 2009. The landlord submitted evidence that the tenants were served with a 10 day Notice to End Tenancy due to non-payment of rent when it was posted on the door of the rental unit on January 9, 2009.

The tenants confirmed receiving the 10 day Notice to End Tenancy and notice of the landlord's application and this hearing. The tenant submitted that this application is not valid as a previous Notice to End Tenancy served by the landlord was set aside in a dispute resolution hearing in December 2008. The tenants acknowledged that they did not pay the outstanding rent or file an application to dispute the 10 day Notice to End Tenancy.

Analysis:

I grant the landlord's application. I am satisfied the tenants were served with the 10 day Notice to End Tenancy on January 9, 2009. I am also satisfied that the tenants failed to exercise their rights to either pay the outstanding rent as indicated on the notice or to file an application for dispute resolution to dispute the notice within five days of receiving the notice. Pursuant to section 46(5) of the Act, the tenants are conclusively presumed to have accepted the end of the tenancy having failed to exercise their rights.

On this basis I grant the landlord's request for an Order of Possession effective **February 13, 2009 at 1:00 p.m.** This Order may be filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

Conclusion:

I have granted the landlord's request for an Order of Possession on the basis that the tenants failed to pay rent or dispute the 10 day Notice to End Tenancy. Having accepted this application, I Order that the landlord may recover the \$50.00 filing fee paid for this application from the tenants. I grant the landlord a monetary Order for the sum of \$50.00.

Dated February 10, 2009.

Dispute Resolution Officer