



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPR, MNDC, FF

Introduction

This hearing dealt with the landlord's application for an Order of Possession, a Monetary Order for damage or loss under the Act, regulations or tenancy agreement and recovery of the filing fee. The tenant did not appear at the hearing. The landlord provided evidence, including a tracking number and receipt, that the tenant was served with the hearing package by registered mail addressed to the rental unit on March 26, 2009. The landlord testified that the registered mail was successfully delivered as the registered mail was not returned to the landlord. Having accepted that the tenant was served with notification of this hearing I proceeded to hear from the landlord without the tenant present.

The landlord withdrew her request for monetary compensation for unpaid rent as all of the outstanding rent has been paid.

Issues(s) to be Decided

1. Has the landlord established an entitlement to an Order of Possession?
2. Award of the filing fee.

Background and Evidence

The landlord testified that the tenancy commenced in November 2008. The tenant is required to pay \$900.00 on the 1st day of every month. The landlord testified that the tenant has been late paying her rent every month. The landlord served the tenant with a *1 Month Notice to End Tenancy for Cause* (the Notice) dated March 2, 2009. The Notice indicates the reason for ending the tenancy is that the tenant has been

repeatedly late paying rent. The effective date on the Notice is April 2, 2009. The landlord testified that the tenant continues to reside in the rental unit.

As evidence that the tenant has been repeatedly late paying rent the landlord testified that the tenant was issued with a 10 Day Notice to End Tenancy for Unpaid Rent on December 2, 2008, January 2, 2009, February 2, 2009 and March 2, 2009. The landlord provided copies of the 10 Day Notices which indicate that they were mailed to the tenant on the same day they were issued.

In making the application for dispute resolution the landlord indicated she was seeking an Order of Possession for unpaid rent; however, in the details for dispute resolution the landlord states the tenant has been late paying rent every month of the tenancy. I accepted that the landlord is seeking to end the tenancy for cause despite the code she selected in completing the online application form.

Analysis

A landlord may end a tenancy where a tenant is repeatedly late paying rent. Three late payments are the minimum number of late payments to justify ending the tenancy for this reason. Based on the evidence presented to me, I am satisfied that the tenant has paid rent late on at least three occasions. Therefore, the landlord is justified in ending the tenancy.

The *1 Month Notice to End Tenancy for Cause* has an incorrect effective date and it has been automatically changed to comply with the Act. The effective date must be at least 30 days after the Notice is served and must be the last day in the rental period. Since I heard the rent is due on the 1st day of the month, the last day of the rental period for April is April 30, 2009. Therefore, the effective date on the Notice is changed to read April 30, 2009 and the tenancy ended on that date. Since the tenancy has ended and



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the tenant continues to reside in the rental unit the landlord is entitled to an Order of Possession. **I provide the landlord with an Order of Possession effective two days after it is served upon the tenant.**

The landlord may file the Order of Possession in The Supreme Court of British Columbia to enforce as an Order of that court.

As the landlord was successful with this application, I order the tenant to pay the landlord \$50.00 to recover the filing fee paid for this application. To enforce payment of the \$50.00 award, the landlord is also provided with a Monetary Order. The landlord must serve the Monetary Order upon the tenant and may file it in Provincial Court (Small Claims) to enforce as an Order of that court.

Conclusion

The tenancy ended effective April 30, 2009. The landlord is provided with an Order of Possession effective two days after it is served upon the tenant.

The landlord is also provided a Monetary Order in the amount of \$50.00 to serve upon the tenant.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: May 08, 2009.

Dispute Resolution Officer