

# Dispute Resolution Services

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

## **DECISION AND REASONS**

**Dispute Codes:** OPR, OPC.

### **Introduction**

This hearing dealt with an application by the Landlord pursuant to section 55 of the *Residential Tenancy Act* for an order of possession for both cause and non payment of rent.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

### **Issues to be decided**

Is the landlord entitled to an order of possession?

### **Background and Evidence**

The landlord testified that the tenancy started on February 08, 2009. The monthly rent is \$700.00 due in advance on the first of each month. The tenant paid a security deposit in the amount of \$200.00.

On March 15, 2009 the landlord served the tenant with a one month notice to end tenancy for cause. The reasons for this notice were that the tenant significantly disturbed the landlord, seriously jeopardized the health and safety of the landlord and did not pay the entire amount of the security deposit within 30 days of the start of the tenancy.

The landlord stated that the tenant failed to pay rent for the month March 2009 and on March 16, 2009; the landlord served the tenant with a ten day notice to end tenancy. The tenant argued that rent was paid on March 01, 2009 and on April 01, 2009 but did not file any evidence to support her claim.

The landlord has applied for an order of possession effective two days after service on the tenant.

### **Analysis**

Based on the sworn testimony of the landlord, I accept the landlord's evidence in respect of the claim. The tenant received the notice to end tenancy for unpaid rent, on March 16, 2009 and did not pay rent within five days of receiving the notice to end tenancy nor did the tenant make application, pursuant to Section 46 to set aside the notice to end a residential tenancy, and the time to do so has expired.

In these situations, the *Residential Tenancy Act* provides that the tenant has been deemed to have accepted the end of the tenancy on the date set out in the Notice. Pursuant to section 55(2) I am issuing a formal order of possession effective two days after service on the tenant. The Order may be filed in the Supreme Court for enforcement.

### **Conclusion**

I grant the landlord an order of possession effective two days after service on the tenant.

Dated May 19, 2009.

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Dispute Resolution Officer