

DECISION

Dispute Codes: OPR, OPL, MNR, MNSD, FF, MT, CNC, CNR

This is a cross applications by the parties. The landlord made an application for order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim. The tenant made an application to allow her more time to file an application to dispute the notice to end tenancy and to dispute the notices to end tenancy.

On February 1, 2009, the landlord collected a security deposit from the tenant in the amount of \$295.00. The tenancy began on the same day. Rent in the amount of \$590.00 is payable in advance on the first day of each month. On April 17, 2009, the landlord served the tenant with a notice to end tenancy for cause. The tenant failed to pay rent in the month of May and on May 2, the landlord served the tenant with a notice to end tenancy for non-payment of rent. The tenant further failed to pay rent in the month of June.

The landlord said that he had served the tenant with a notice to end tenancy for cause on April 17. He was uncertain as to whether he had served the tenant with such notice in person or by posting it on the door. The tenant said that the notice was posted on her door and she was away at the time. Therefore she did not receive the notice until April 24. The Residential Tenancy Guideline on Service Provisions states that the Legislation deems a document to be served 3 days after it is posted on the person's door. The notice to end tenancy for cause in this case would therefore be deemed served on the tenant on April 20. The tenant did not file an application to dispute this notice until May 6.

The tenant gave the following reasons for her delay in filing an application to dispute the notice to end tenancy for cause. She did not know what to do. She had never done this before. She did not read through page 2 of the notice. I do not find any of the above reasons to be serious and compelling. I therefore

dismiss the tenant's application to allow her more time to file an application to cancel the notice to end tenancy for cause.

Having made this finding, I find that the tenant has not filed the application for dispute resolution within the prescribed period of 10 days and is therefore conclusively presumed 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. The tenant must be served with the order of possession. 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.

The landlord is seeking to recover from the tenant outstanding rent for the month of May in the amount of \$590.00. The tenant is currently still living in the rental unit. The landlord is therefore seeking to include a claim for loss of income for the month of June in the amount of \$590.00. I find that the tenant should reasonably have known that the landlord could not re-rent the unit while she was still in residence and I allow the claim for a further \$590.00.

As for the monetary order, I find that the landlord has established a claim for \$590.00 in unpaid rent and \$590.00 in loss of income. The landlord is also entitled to recovery of the \$50.00 filing fee. I order that the landlord retain the security deposit and interest of \$295.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$935.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated June 10, 2009.