



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION AND REASONS

Decision

Dispute Codes:

OPC, CNC

Introduction

This was a cross-application hearing.

Both parties were present at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present affirmed oral evidence, to cross-examine the other party, and to make submissions during the hearing.

Issue(s) to be Decided

Is the landlord entitled to an Order of possession?

Background and Evidence

During the hearing the parties agreed that a One Month Notice to End Tenancy for Cause, which had an effective date of June 30, 2009, was served to the tenant.

The tenant has applied to cancel the Notice issued for repeated late payment of rent.

The landlord testified that the tenant has paid her rent late in November and December 2008; January, February, March and May 2009. The tenant stated that she did not understand that late payments would place her tenancy at risk. The tenant did not deny that her rent payments have been late and that she understood rent is due on the first day of each month.

The landlord stated that she lives upstairs and that when rent was late she would go downstairs to see the tenant or call the tenant requesting the rent. The landlord provided copies of receipts indicating the dates upon which the rent was paid. The landlord submitted a copy of a May 6, 2009 Notice to End Tenancy for Unpaid rent as the tenant had failed to pay utilities. This notice was cancelled as the payment was made within five days.

Analysis

Three late payments are the minimum number sufficient to justify a notice to end tenancy for cause. It does not matter whether the late payments were consecutive or whether one or more rent payments have been made on time between the late payments. Since October 2008 the tenant has made late payments on six occasions. Therefore; I find that the Notice to End Tenancy for Cause is of full force and effect and on this basis I find that the Landlord is entitled to an Order of Possession that is effective within two days of service.

Conclusion

I hereby grant the Landlord an Order of Possession that is effective within two days of service to the tenant. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia, and enforced as an Order of that Court.

The tenant's application to cancel the Notice to End Tenancy is dismissed without leave to reapply.

Dated July 21, 2009.

Dispute Resolution Officer