

Dispute Resolution Services

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

DECISION

Dispute Codes:

OPR, CNR, MNR, MNSD, MNDC FF

Introduction

This hearing was convened in response to an amended application by the landlord and an application by the tenant.

The tenant sought to cancel a Notice to End Tenancy for Unpaid Rent dated May 28, 2009, for an order for the landlord to comply with the act, make repairs, and provided services or facilities required by law. The landlord sought an Order of Possession due to the unpaid rent and for an undisputed Notice to End Tenancy for Cause dated June 02, 2009, a Monetary Order to recover rental arrears and inclusive of recovery of the filing fee associated with this application, and an order to retain the security deposit in partial satisfaction of the monetary claim.

Both parties attended the conference call hearing and each participated in the hearing with submissions and under affirmed testimony.

Issue(s) to be Decided

Are the two (2) notices to end tenancy valid?

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to the monetary amounts claimed?

Background and Evidence

The relevant evidence in these matters is as following. The tenancy began on July 01, 2007. Rent in the amount of \$1836 is payable in advance on the first day of each month. At the outset of the tenancy, the landlord collected a security deposit from the tenant in the amount of \$900. The tenant failed to pay rent in the month(s) of May 2009

and on May 28, 2009 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 and July 2009. On June 02, 2009 the landlord served the tenant with a 1 Month notice to End Tenancy for Cause reason: Tenant is repeatedly late paying rent. The tenant did not file to dispute the 1 Month Notice to end Tenancy. The quantum of the landlord's monetary claim is for May, June and July rent in the amount of **\$5508**.

The landlord seeks an Order of Possession as soon as possible based on either of the Notices to End the Tenancy.

Analysis

Based on the landlord's testimony I find that the tenant was served with a Notice to End Tenancy for non-payment of rent, and a 1 month Notice to end Tenancy for Cause, (which the tenant did not / does not dispute) I find the first notice to be valid. The tenant has not paid the outstanding rent, has no Order from an Arbitrator to withhold rent, and has no evidence for withholding rent for emergency repairs with prior notice to the landlord. The tenant has not applied for dispute resolution to dispute the Notice to End Tenancy for Cause and is therefore conclusively presumed to accept that the tenancy ends on the effective date of the Notice to End Tenancy for Cause.

Based on the above facts I find that the landlord is entitled to an Order of Possession.

As for the monetary order, I find that the landlord has established a claim for **\$5508** in unpaid rent. The landlord is also entitled to recovery of the \$50 filing fee, for a total entitlement of **\$5558**.

Conclusion

I grant an Order of Possession to the landlord effective **July 31, 2009**. The landlord has discretion whether to serve the Order, however, the Order has no effect if it is not served on the tenant- the tenant must be served with this 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.

I order that the landlord retain the deposit and interest of \$920.86 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of

\$4637.14. If necessary, this order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated July 13, 2009