

DECISION

Dispute Codes: CNC, O

This hearing dealt with an application by the tenants to cancel a notice to end tenancy for cause.

The tenancy started on October 1, 2005. A monthly rent of \$575.00 is payable on the first day of each month. On June 1, 2009, the landlord served the tenants with a notice to end tenancy for cause.

The landlord said that the tenants were late in paying rent for several months in 2008 and 2009. He referred to a letter dated November 1, 2008 which was submitted as evidence for the hearing. In this letter, the landlord stated to the tenant, JM, “needs rent 1st of the month not 6th or 7th”. The tenants admitted that there were late in paying rent in April and June of 2009. They maintained that the landlord had agreed for them to pay rent by instalments each month.

I note that at the beginning of the hearing, the tenants testified that the monthly rent was due on the first day of each month. As well, the landlord’s letter dated November 1, 2008 confirms that the rent is due on the first day of each month. Based on the above, I find that the monthly rent is due on the first of each month and there was no agreement between the parties for the rent to be paid by two instalments each month. I further find that the tenants were late in paying rent in at least one month in 2008 and in April and June of 2009. The Residential Tenancy Branch Policy Guideline on “Repeated Late Payment of Rent” states that three late payments are the minimum number sufficient to constitute a cause for ending tenancy. In this case, the tenants were late in paying rent for at least 3 months. Based on the above, I find that the landlord has established ground to end the tenancy. I therefore dismiss the tenants’ application.

During the hearing, the landlord requested for an order of possession. Based on the above facts, I find that the landlord is entitled to an order of possession. The tenants must be served with the order of possession. Should the tenants 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.

Dated September 11, 2009