



Dispute Resolution Services

Residential Tenancy Branch

Ministry of Housing and Social Development

DECISION AND REASONS

Dispute codes

OPC, FF

Introduction:

This hearing was convened in response to an application by the landlord for an Order of Possession in relation to an undisputed One (1) Month Notice to End Tenancy for Cause (Notice to End) served on the tenant by posting on the tenant's door June 15, 2009 in accordance with Section 89 of the Residential Tenancy Act (the Act). The Notice to end has an effective date of July 31, 2009. The reason stipulated in the Notice to End: *Tenant is repeatedly late paying rent.*

Both parties were represented in the conference call and participated in the hearing and were given opportunity to provide submissions and give testimony.

Issue(s) to be decided

Is the landlord entitled to an Order of Possession?

Background and evidence

This tenancy began November 01, 2008. Rent is \$933 per month payable in advance on the first of each month.

It is not disputed by the tenant that the landlord provided valid evidence the tenant was repeatedly late in paying the rent for the months February through to June 2009 for which the tenant was repeatedly served 10 Day Notice(s) to Vacate for Unpaid Rent, until the landlord determined to serve the tenant the One Month Notice to End. All subsequent rent paid by the tenant, has been accepted for "use and occupancy only".

The landlord's request is for an Order of Possession effective October 31, 2009.

Analysis

On the reverse of the Notice to End it states the following:

Information for Tenants who receive this Notice to end Tenancy

You have the right to dispute this Notice within 10 days after you receive it by filing an Application for Dispute Resolution at the Residential Tenancy Branch

If you do not file an application within 10 days, you are presumed to accept this Notice and must move out of the rental unit or vacate the site by the date set out on page 1 of this Notice (you can move out sooner). If you do not file an application, move or vacate, your landlord can apply for an Order of Possession that is enforceable through the court.

I find the tenant did not file an application for Dispute Resolution within 10 days to dispute the Notice and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice. Based on the above information, **I find** the landlord is entitled to an Order of Possession.

Conclusion

I grant an Order of Possession to the landlord, effective **October 31, 2009**. The landlord can serve the tenant with this Order and the tenancy will end. Despite this, the landlord has discretion whether to use the Order provided. Should the landlord choose to, 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.

As the landlord was successful in their application, I grant the landlord recovery of the filing fee for this application. **I Order** the landlord may deduct the amount of **\$50** from the tenant's security deposit.

Dated September 17, 2009.