



Dispute Resolution Services

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

DECISION

Dispute Codes: CNR

Introduction

This application was brought by the tenant seeking to have set aside a 10-day Notice to End Tenancy for unpaid rent served in person on August 6, 2009 according to the application, although the notice submitted by the landlord was dated July 2, 2009.

Despite having made application to dispute the Notice on August 11, 2009, the tenant did not call in to the number provided to enable her participation in the telephone conference call hearing. Therefore, it proceeded in her absence.

Issues to be Decided

This application requires a decision on whether the Notice to End Tenancy should be set aside or upheld.

Background and Evidence

During the hearing, the landlord gave evidence that this tenancy began in approximately 2001, although he could not recall the exact date. Rent is \$500 per month and there is no security deposit.

The landlord gave evidence that the notice had been served when the tenant had failed to pay rent for May, June and July. In the interim, he stated that the tenant has not paid rent for August and September.

Analysis

Section 46 of the *Act*, which deals with notice to end tenancy for unpaid rent, provides that a tenant may pay the overdue rent or make application for dispute resolution within five days of receiving the notice.

In this instance, while the tenant has made application, in the absence of any evidence to the contrary, I find that the tenant has not paid rent for the five months stated by the landlord.

Section 55(1) of the *Act* states that, if a tenant's application to set aside a Notice to End Tenancy is dismissed, I must issue an Order of Possession on the landlord's request.

In this instance, as the applicant tenant did not appear, her application is dismissed without leave to reapply.

On hearing that determination, the landlord requested, and I find he is entitled to an Order of Possession effective two days from service of it upon the tenant.

Conclusion

Thus, the landlord's copy of this decision is accompanied by an Order of Possession, enforceable through the Supreme Court of British Columbia, effective two days from service of it on the tenant.

The landlord remains at liberty to make application for the unpaid rent and any damages as may be ascertained at the conclusion of the tenancy.

October 16, 2009
