



Dispute Resolution Services

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

DECISION

Dispute Codes: CNR, MNR, MNSD and FF

Introduction

This application was brought by the tenant seeking to have set aside a 10-day Notice to End Tenancy for unpaid rent served on August 8, 2009

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

This tenancy began on December 1, 2003. Rent is \$1,310 per month and the landlord holds a security deposit of \$600 paid on December 1, 2003.

During the hearing, the landlord gave evidence that the Notice to End Tenancy had been served when the tenant had failed to pay rent for July and August of 2009. In the interim, the tenant has not paid the rent for September or October.

The tenant did not dispute that the rent was unpaid but proposed that she could pay the arrears off in two instalments, one within the next few days and the other by the end of the month.

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, I find that the tenant has made application to dispute the Notice to End but the rent arrears was not paid within five days of receipt of the notice, remains unpaid, and has grown by September and October rent.

Therefore, I find that the Notice to End Tenancy of August 8, 2009 is lawful and valid and I cannot set it aside.

On hearing that determination, the landlord requested an Order of Possession. Section 55(1) of the *Act* states that, on such a request from a landlord on a tenant's application to set aside a Notice to End Tenancy, I must issue an Order of Possession if the notice is upheld.

Accordingly, I find that the landlord is entitled to an Order of Possession effective two days from service of it on 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 a Monetary Order for the unpaid rent any other damage or loss as may be ascertain at the conclusion of the tenancy.