

## **Decision**

**Dispute Codes:** CNC, OPC, FF

### **Introduction**

This hearing dealt with two applications: 1) from the tenant for cancellation of the landlord's 1 month notice to end tenancy for cause, and recovery of the filing fee; 2) from the landlords for an order of possession, and recovery of the filing fee. Both parties participated in the hearing and gave affirmed testimony.

On the day before the scheduled conference call hearing, by letter dated November 25, 2009, counsel for the tenant requested an "oral hearing." The reason cited in this request is that the dispute resolution officer "cannot come to an objective decision if the writer is denied the opportunity to cross examine the landlords." Counsel for the tenant spoke to his submission at the outset of the hearing and made specific reference to the importance of cross - examination and witness testimony.

The landlords objected to the above request. They noted that the hearing date was scheduled approximately 3 weeks ago, that the request was made late, and that an adjournment would lead to a further delay in the resolution of the dispute.

I determined that neither party had planned to have witnesses attend the hearing. Further, I noted that proceeding with the hearing by way of conference call did not preclude cross examination by both parties. In the result, the request for adjournment in order to schedule a face-to-face hearing was denied.

### **Issues to be decided**

- Whether either party is entitled to any or all of the above under the Act

### **Background and Evidence**

Pursuant to a written tenancy agreement, the month-to-month tenancy began on December 1, 2003. Rent and utilities in the combined amount of \$1,180.00 is payable in advance on the first day of each month. A security deposit of \$500.00 was collected on November 12, 2003.

The landlord issued a 1 month notice to end tenancy for cause dated October 28, 2009. The notice was served in person on the tenant on that same date. A copy of the notice was submitted into evidence. Reasons shown on the notice for its issuance are as follows:

Tenant is repeatedly late paying rent

Tenant or a person permitted on the property by the tenant has:

significantly interfered with or unreasonably disturbed another occupant or the landlord

seriously jeopardized the health or safety or lawful right of another occupant or the landlord

put the landlord's property at significant risk

The tenant disputed the notice by filing an application for dispute resolution on November 3, 2009. The landlords filed a cross application on November 6, 2009.

During the hearing the parties were given an opportunity to resolve their dispute.

### **Analysis**

Section 63 of the Act provides that the parties may undertake to settle their dispute during a hearing. Pursuant to this provision, discussion between the parties during the hearing led to a resolution. Specifically, it was agreed as follows:

- that the tenant will vacate the unit effective not later than 1:00 p.m., January 31, 2010, and that an order of possession will be issued in favour of the landlords to that effect;
- that in the meantime, the tenant will proceed FORTHWITH to park his vehicles at the front of the building, as opposed to at the rear.

### **Conclusion**

Pursuant to all of the above, I hereby issue an order of possession in favour of the landlords effective not later than **1:00 p.m., Sunday, January 31, 2010**. This order must be served on the tenant. 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 parties succeeded in negotiating a settlement of their dispute, I dismiss their respective applications for recovery of the filing fee.

DATE: November 27, 2009

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Dispute Resolution Officer