

DECISION

Dispute Codes: OPC, MNR, MNDC, CNC, MNSD and FF

Introduction

These applications were brought by both the landlord and the tenant.

By application of October 22, 2009, the landlord sought an Order of Possession pursuant to a 10-day Notice to End Tenancy served October 13, 2009 and a one-month Notice to End Tenancy for repeated late payment of rent served on September 30, 2009. The landlord also sought a Monetary Order for unpaid rent, recovery of the filing fee for this proceeding and authorization to the security deposit in set off against the balance owed. The landlord withdrew a claim for \$118 for a contested rent shortfall in February 2009 in order to simplify proceedings.

By application of October 7, 2009, the tenant sought to have the Notice to End Tenancy of September 30, 2009 set aside.

As there was some question as to service of the Notice to End of October 13, 2009, the hearing proceeded on the notice of September 30, 2009 for repeated late payment.

Issues to be Decided

This matter requires a decision on whether the Notice to End Tenancy of September 30, 2009 should be upheld or set aside, and whether the landlord is entitled to an Order of Possession and a Monetary Order for unpaid rent.

Background and Evidence

This tenancy began January 15, 2009 with the somewhat unusual provision that rent was payable in halves on the 6th and 25th days of the month. Rent was \$665 per month and the landlord holds a security deposit of \$332.50 paid on January 15, 2009.

During the hearing, the landlord submitted copies of all receipts issued since the tenancy began. January rent due on the 15th was paid on the 23rd, February due on the 6th was paid on the 7th, a portion of the April rent due on the 25th was paid on the 30th, a portion of May rent and all of the June rent were paid on July 5th, and a portion of the August rent was short.

In addition, while the October rent, unpaid and late the time of the landlord's application, had been brought up to date, the November rent had not been paid.

The tenant gave evidence that, due to injury and loss of employment, her income had been compromised and she was having a challenge in meeting her obligations.

Analysis

Section 47(1)(b) of the *Act* provides that a landlord may end a tenancy by serving notice if a tenant is repeatedly late paying rent.. Residential Tenancy Policy Guidelines set three late payments within one year as a threshold to constitute repeated late payment under the *Act*.

In this instance I find that the tenant has made at least six late rent payments in the 10 months of this tenancy.

Therefore, the landlord requested and I find she is entitled to an Order of Possession effective on November 30, 2009.

I further find that the landlord is entitled to a Monetary Order for the unpaid rent for November 2009, recovery of the filing fee for this proceeding and authorization to retain the security deposit in set off against the balance owed, calculated as follows:

November 2009 rent	\$665.00
Filing fee	50.00
Sub total	\$715.00
Less security deposit remaining after previous hearing fee	- 332.50
TOTAL	\$ 382.50

Conclusion

Thus, the landlord's copy of this decision is accompanied by an Order of Possession, to take effect at 1 p.m. on November 30, 2009 and, in addition to authorization to retain the security deposit in set off, a Monetary Order for \$382.50 for service on the tenant..

The Order of Possession is enforceable through the Supreme Court of British Columbia and the Monetary Order is enforceable through the Provincial Court of British Columbia.