

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 on November 2, 2009.

Despite having made this application and having been provided with a Notice of Hearing, the tenant did not call in to the number provided to enable her participation in the telephone conference call hearing. The respondent landlord did attend.

Therefore, the application was dismissed without leave to reapply.

On hearing that determination, the landlord requested an Order of Possession pursuant to section 55(1) of the *Act* which provides for such a request if a tenants application to set a Notice to End Tenancy fails on its merits or is dismissed.

Issues to be Decided

This application requires a decision on whether the landlord is entitled to an Order of Possession and the effective date.

Background and Evidence

This tenancy began on June 9, 2005. Current market rent is \$768 and the landlord holds a security deposit of \$394 paid on May 26, 2005.

The landlord gave evidence that the Notice to End Tenancy was served when the tenant had failed to pay the rent for November 2009. In the interim, the November rent remains unpaid and the tenant has failed to pay the rent for December 2009.

Analysis

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

Otherwise, the tenant is conclusively presumed to have accepted that the tenancy ends on the date set out in the notice.

In this instance, I find that the tenant made application to dispute the Notice to End but failed to appear, and the rent arrears was not paid within five days of receipt of the notice. The Notice to End Tenancy remains valid.

Therefore, I find that the landlord is entitled to an Order of Possession under section 55(1) of the *Act*, as requested, to take effect two days from service of it on the tenant.

Conclusion

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