

## **DECISION**

**Dispute Codes:** OPC, MNR, MNSD and FF

### **Introduction**

By application of October 13, 2009, the landlord sought an Order of Possession pursuant to a one-month Notice to End Tenancy cause served on September 9, 2009. October 13, 2009. The landlord also sought a Monetary Order for unpaid rent.

In addition, I have exercised the discretion granted under section 64(3)(c) of the *Act* to permit the landlord to amend her application to request authorization to the security deposit in set off against the balance owed.

### **Issues to be Decided**

This matter requires a decision on whether the Notice to End Tenancy of September 9, 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 and authorization to retain the security deposit in set off.

### **Background and Evidence**

This tenancy began August 1, 2008. Rent is \$881.45 per month and the landlord holds a security deposit of \$332.50 paid on January 15, 2009.

During the hearing, the landlord gave evidence that the rental agreement had been made with the tenant's mother who had moved out after receiving the Notice to End Tenancy and after offering a letter of apology.

She said that the notice had been issued after the tenant had been warned on several occasions for having guests who had slept in the hallways of the rental building had panhandled in the halls and lobby of the rental building and there was one instant in which one of the parties had been arrested.

The tenant had also repeatedly admitted guests through the emergency exit of the building, an action he attributed to his disability and the unreliability of the door entry system.

The landlord also gave uncontested evidence that the tenant had accumulated rent arrears to and including November rent of \$1,643.95.

The tenant stated that the hallway sleepers had not been his guests, but the landlord read from incident reports noting that they had been seen coming and going from his rental unit.

## **Analysis**

Section 47(1)(d)(i) of the *Act* provides that a landlord may end a tenancy by serving notice if a tenant or persons permitted on the residential property by the tenant significantly disturb other tenants or the landlord.

Section 47(4) and (5) of the *Act* state that a tenant may make an application to dispute a notice to end for cause within 10 days of receiving it. If the tenant does not do so, the tenant is conclusively presumed to have accepted that the tenancy ends on the date set by the notice and must vacate by that date. While the notice set an end date of October 10, 2009, that would have automatically corrected to October 31, 2009.

In this instance I find that the tenant did not make application to dispute the notice and, therefore, the landlord is entitled to an Order of Possession effective November 30, 2009.

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

Accumulated rent arrears to November 2009	\$1,643.95
Filing fee	50.00
Sub total	\$1,693.95
Less security deposit remaining after previous hearing fee	- 425.00
	- 2.66
<b>TOTAL</b>	<b>\$1,266.29</b>

## 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.