

## **DECISION**

**Dispute Codes**      OPC, OPB, FF

### **Introduction**

This hearing was convened by way of conference call to deal with the landlord's application for an Order of Possession for cause, and due to a breach of the agreement. The landlord is also claiming an order to recover the filing fee from the tenant for the cost of this application.

The parties gave affirmed evidence and were both given the opportunity to cross-examine each other on their evidence.

### **Issues(s) to be Decided**

Is the landlord entitled to an Order of Possession for cause?

### **Background and Evidence**

This tenancy began on May 1, 2009. The tenant still resides in the unit, and her share of the rent is \$100.00 per month, due on the 1<sup>st</sup> of each month. There are currently no arrears in rent, and no security deposit or pet deposit was paid.

The landlord testified that the house has 5 bedrooms and 5 people live in the house. There are 2 separate Tenancy Agreements; 2 of the tenants do not have Tenancy Agreements, but these tenants do have such an agreement. Rent is paid directly to the landlord. The tenants pay the gas bill and hydro bill. There are presently no arrears for utilities.

The landlord stated that the tenant was late paying rent in September, October, November, December and January.

The landlord further testified that this tenant has been subletting the garage since October, 2009, and that she spoke with that person who stated that he was paying \$500.00 per month to sleep in the garage. This evidence was disputed by the tenant. The person in the garage was a friend of the tenant's son who was staying there for a couple of weeks while looking for work. The garage was part of the Tenancy Agreement.

The tenant testified that the landlord constantly harasses her, and an agreement had been made by the parties that the tenant would vacate the residence on April 30, 2010.

The tenant testified that every month the landlord attends at the Ministry of Human Resources to attempt to have the tenant cut off for assistance by telling them that the tenant doesn't live there and doesn't pay rent. On one occasion, the landlord told the Ministry she was the tenant. Every month the tenant would be called upon to explain her situation to protect her financial entitlement.

The hearing concluded with a consent to an Order of Possession by April 30, 2010.

### **Analysis**

Due to the settlement, I find that an end to the tenancy for April 30, 2010 will be fair to both parties.

I find that the parties did consent to the tenant vacating the premises on April 30, 2010 prior to bringing this application. Therefore, this application was not necessary, brought vexatiously by the landlord, and the landlord should not be entitled to recover the filing fee for the cost of this application.

### **Conclusion**

Based on the testimony of the parties, and in light of the settlement reached at the hearing, I find that the landlord is entitled to an order of possession for April 30, 2010. The tenant must be served with the order of possession. 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.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: March 05, 2010.

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Dispute Resolution Officer