

## **DECISION**

Dispute Codes      OPC, O

### Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord to obtain an Order of Possession for cause and other issues. On the application the landlord only indicated other issues however in the details of the dispute section the landlord asked for an Order of Possession based on the One Month Notice to End Tenancy.

Consequently, I have allowed this amendment to the landlords' application as the tenant would be aware what remedy the landlord was seeking.

Service of the hearing documents, by the landlord to the tenant, was done in accordance with section 89 of the *Act*; they were given to the tenant in person on May 10, 2010. The landlords' agent gave sworn testimony that service of these documents took place as declared.

The landlords agent appeared, gave affirmed testimony, was provided the opportunity to present her evidence orally, in writing, and in documentary form. There was no appearance for the tenant, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*.

### Issues(s) to be Decided

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

### Background and Evidence

This month to month tenancy started March 01, 2007. This was a verbal agreement between the landlord and tenant. Rent for this unit is \$600.00 per month and is due on the first of each month. The tenants rents the basement suite in the landlords house and has separate kitchen and bathroom facilities.

The landlords' agent testifies that the tenant was served with a One Month Notice to End Tenancy for cause on April 20, 2010. This was given in person to the tenant by the landlord and his agent. The reasons given on the Notice are that the tenant has seriously jeopardized the health, safety and lawful right of the landlord or another occupant and the tenant has put the landlords' property at significant risk.

The Notice states the tenant had 10 Days to file an application to dispute the notice. The tenant did not file an application within this time.

The landlords' agent testifies that the tenant smokes in the rental unit despite having been told not to do so and this affects the health and safety of the landlords' family. The landlords' agent also testifies that the tenant lives in the landlords' basement suite and continually fails to set the alarm system to the suite. The adjoining door between the suites is not alarmed so if the tenant suffered a break in the landlords unit could be entered and his families' safety compromised. The landlords agent also testifies that the tenant repeatedly gives her keys to another Party and then asks the landlord to change the locks therefore putting the landlords property at risk.

### Analysis

The tenant did not appear at the hearing, despite having been given a Notice of the hearing; therefore, in the absence of any evidence from the tenant, I find the tenant was

served with a One Month Notice to End Tenancy as declared by the landlord. The tenant had 10 days to file an application to dispute this notice. Section 47(5)(a)(b) of the *Act* states:

If a tenant who has received a notice under this section does not make an application for dispute resolution in accordance with subsection (4), the tenant

(a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and

(b) must vacate the rental unit by that date.

I can find no evidence to show that the tenant has filed an application to dispute the One Month Notice to End Tenancy dated April 19, 2010. Consequently, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice. As the tenant remains living in the rental suite I find the landlord is entitled to an Order of Possession pursuant to section 55 of the *Act*.

### Conclusion

I HEREBY ISSUE an Order of Possession in favour of the landlord effective **two days after service** on the tenant. This order must be served on the Respondent and may be filed in the Supreme Court 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: June 28, 2010.

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Dispute Resolution Officer