

DECISION

Dispute Codes: OPR, MNR and FF

Introduction

This application was brought by the landlord seeking an Order of Possession pursuant to a 10-day Notice to End Tenancy for unpaid served by posting on the tenant's door on June 3, 2010. The landlord also sought a Monetary Order for the unpaid rent.

This matter was originally dealt with as a Direct Request Proceeding on June 18, 2010 on written submissions only but was adjourned to the present participatory hearing due to a need to clarify the named tenant(s).

Issues to be Decided

This application requires a decision on whether the landlord is entitled to an Order of Possession and a Monetary Order for the unpaid rent.

Background and Evidence

This tenancy began on September 1, 1995. The tenant's share of subsidized rent is \$334 per month and the landlord holds a security deposit of \$500 paid on or about September 1, 2010.

During the hearing, the landlord gave evidence that the Notice to End Tenancy had been served when the tenant had not paid the rent for March, April, May and June of 2010. In the interim, the tenant has not paid rent for July or August of 2010.

The tenant stated that she had sought the intervention of the Income Assistance program, but the landlords stated that was well beyond the five days within which the Notice to End Tenancy could have been nullified under section 46(4) of the *Act*.

Therefore, the landlord requests an Order of Possession and a Monetary Order for the unpaid rent.

Analysis

Section 46 of the *Act* provides that a landlord may issue a Notice to End Tenancy for unpaid rent on a day after the rent is due. The tenant may cancel the notice by paying the overdue rent or make application to dispute the notice within five days of receiving it.

In this instance, I find that the tenant did not pay the rent within five days of receiving the notice and did not make application to dispute it. Therefore, under the *Act*, the tenant is conclusively presumed to have accepted that the tenancy ended on the date specified in the Notice to End Tenancy.

Therefore, I find that the landlord is entitled to an Order of Possession effective two days from service of it on the tenant.

I further find that the landlord is entitled to a Monetary Order for unpaid rent as requested and calculated as follows:

Rent for March 2010	\$ 334.00
Rent for April 2010	334.00
Rent for May 2010	334.00
Rent for June 2010	334.00
Rent for July 2010	334.00
Rent for August 2010	334.00
TOTAL	\$2,004.00

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.

The landlord is also issued with a Monetary Order for **\$\$2,004.00**, enforceable through the Provincial Court of British Columbia, for service on the tenant.

August 12, 2010
