

DECISION

Dispute Codes: OPL and FF

Introduction

This application was brought by the landlord seeking an Order of Possession pursuant to a two- month Notice to End Tenancy for landlord use served on February 16, 2010 and recovery of the filing fee for this proceeding.

Issues to be Decided

This application requires a decision on whether the landlord is entitled to an Order of Possession and recovery of the filling fee for this proceeding from the tenant.

Background and Evidence

This tenancy began on February 15, 1976 and the security deposit of \$139.77 appears to have been paid on a renewal agreement signed on August 19, 1981. Current rent is \$998 per month.

During the hearing, the landlord gave evidence that the Notice to End Tenancy had been served when the landlord had obtained a demolition permit to demolish the rental building to permit construction of a park.

The notice was dated and served by posting on February 16, 2010 and set an end of tenancy date of April 30, 2010. It was accompanied by a letter confirming earlier telephone advice to the tenant that it was coming and extending the end of tenancy date to July 1, 2010.

The tenant appears to have made application to set the notice aside, but cancelled the hearing by letter of July 28, 2010.

On July 27, 2010, the tenant had signed a letter to the landlord in which he promised to vacate on August 31, 2010, to clean the yard and house by that time, and to accept responsibility for the cost of any remaining work that might be left.

The landlord stated that when she attended the rental unit on August 31, 2010 to conduct a move-out condition inspection, the tenant appeared to have taken few steps, if any, toward moving out. Consequently, the landlord brought application for the Order of Possession.

The tenant concurred that he remained in the rental unit at the time of the hearing and stated that he had not paid rent for September or October. He stated that, being in his senior years and on a fixed income, he had some difficulty in completing the work which included removal of a number of vehicles.

He said he believed he could complete his move-out by the end of October if the landlord would grant him the time.

The landlord stated that the property has been subject to letters from the municipality requesting clean-up of the property since 1988 and that the landlord did not believe a further extension of the tenancy would be effective as they had not in the past.

Analysis

Section 49(6)(a) of the *Act* provides that a landlord may end a tenancy by issuing a two-month Notice to End Tenancy if the landlord has the necessary permits to demolish the rental building, among other reasons. Having examined the Notice and the Demolition Permit, I find that the Notice to End Tenancy was lawful and valid.

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

I further find that that the landlord is entitled to recover the filing fee for this proceeding from the tenant and I hereby authorize and order that the landlord may retain \$50 from the tenant's security deposit for that purpose.

Conclusion

1. 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.
2. The landlord is authorized to recover the filing fee by retaining \$50 from the tenant's security deposit.

3. The landlord remains at liberty to make application for any further damage or loss as may be ascertained at the conclusion of the tenancy.

During the hearing, the landlord questioned whether the tenant remained entitled to the equivalent of one month's rent as prescribed under section 51 of the *Act*. I confirm that to be the case although that credit may be taken into account on a future application by the landlord.

October 8, 2010