

DECISION

Dispute Codes OPC, MNR, FF

Introduction

This is an application by the Landlord for an order of possession resulting from a 1 month notice to end tenancy for cause, a monetary order request for unpaid rent and the recovery of the filing fee.

Both parties attended by conference call and gave affirmed testimony.

At the beginning of the hearing, the Tenant made note that the entire rent arrears were paid to the Landlord. The Landlord confirms the arrear payments and states that a monetary order is no longer being sought.

Issues(s) to be Decided

Is the Landlord entitled to an order of possession?

Background and Evidence

The Landlord served in person a 1 month notice to end tenancy for cause on September 5, 2010 for repeated late rent payments. The move out date on the notice shows a September 15, 2010 date, which is contrary to 1 month notice from the September 5, 2010 service date. The Landlord has served the Tenant with the hearing documents on November 9, 2010 by registered mail. The Landlord has failed to serve the Tenant with a copy of the late evidence package on November 24, 2010. The contents of the evidence package was explained to the Tenant, which the Tenant stated that she had copies of the bank statements from the Landlord for confirmation of her rent payments. The last document provided in the late evidence package was the

registered mail receipt for the hearing documents to the Tenant. The Tenant did not object to the evidence as she had her own copies of such.

Analysis

I find that the Landlord has properly served the Tenant with the 1 month notice to end tenancy for cause. Section 47 (1) A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies: (b) the tenant is repeatedly late paying rent. Section 47 (2) A notice under this section must end the tenancy effective on a date that is (a) not earlier than one month after the date the notice is received, and (b) the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

I note a discrepancy in the 1 month notice which indicates a September 15, 2010 move out date, but should be a date beyond that of October 5, 2010. Section 53 (1) If a Landlord or Tenant gives notice to end a tenancy effective on a date that does not comply with this Division, the notice is deemed to be changed in accordance with subsection (2) or (3), as applicable.

The Tenant does not dispute the repeated late rent payments as shown in evidence from the Landlord. The Tenant did not file an application for dispute resolution for the 1 month notice to end tenancy for cause. Section 47 (4) A tenant may dispute a notice under this section by making an application for dispute resolution within 10 days after the date the tenant receives the notice. Subsection (5) 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 find that there was no bias to the Tenant in the late evidence package. I am satisfied that the Landlord has properly served the 1 month notice to end the tenancy for cause

and has provided sufficient evidence to show that the Tenant has repeatedly made late rent payments. I grant the Landlord an order of possession. 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.

The Landlord is also entitled to recovery of the \$50.00 filing fee for being successful in his application. I grant the Landlord an order under section 67 for \$50.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The Landlord is granted an order of possession.

The Landlord is granted a monetary order for \$50.00.

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: November 29, 2010.

Dispute Resolution Officer