



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes CNR

Introduction

This hearing dealt with an application by the tenant for an order setting aside a notice to end this tenancy. Both parties participated in the conference call hearing.

Issue to be Decided

Should the notice to end tenancy be set aside?

Background and Evidence

The parties agreed that the tenant was obligated to pay \$1,100.00 per month in rent. There was some discrepancy over whether the tenant had paid arrears owing in August and September and whether he had paid any of the amount owing for the month of October. The tenant stated that to the best of his knowledge, his brother had paid \$800.00 of the rent owing for October and that there were still arrears. The tenant indicated that his brother would be accessing the conference call hearing but the brother did not call in during the duration of the hearing.

Analysis

The tenant has a contractual obligation to pay rent on the day in which it is due under the terms of the tenancy agreement. As there was no dispute that at least some rent was owing at the end of October, I find that the tenant failed to meet his obligation. I find that the tenant was served with a notice to end tenancy on October 6 and I find that

the landlord has proven that he has grounds to end the tenancy. I therefore decline to set aside the notice to end tenancy and I dismiss the tenant's claim.

During the hearing the landlord made a request under section 55 of the legislation for an order of possession. Under the provisions of section 55, upon the request of a landlord, I must issue an order of possession when I have upheld a notice to end tenancy.

Accordingly, I so order. 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.

Conclusion

The tenant's claim is dismissed. The landlord is granted an order of possession.

Dated: November 09, 2010

Dispute Resolution Officer