

DECISION

Dispute Codes: CNC

Introduction

This application was brought by the landlord seeking an Order of Possession pursuant to a one-month Notice to End Tenancy for cause served on September 21, 2010 in person and setting an end of tenancy date of October 31, 2010. Causes cited on the notice included seriously jeopardy of the health, safety or lawful right of another occupant or the landlord and breach of a material term of the rental unit that was not corrected after written notice to do so.

Despite having been served with the Notice of Hearing in person on October 21, 2010, the tenant did not call in to the number provided to enable her participation in the telephone conference call hearing. Therefore, it proceeded in her absence.

Issues to be Decided

This application requires a decision on whether the Notice to End Tenancy should be set aside or upheld with an Order of Possession.

Background and Evidence

This tenancy began on September 1, 1985. Rent is \$385 per month and the landlord holds a security deposit of \$100 paid on August 27, 1985.

During the hearing, the landlord's agents gave evidence that the Notice to End Tenancy had been served after the tenant had repeatedly disconnected the smoke detector in her rent unit.

The agents submitted into evidence a letter to the tenant dated March 23, 2010 which cited service call to the rental unit on March 18, 2010 in which a tradesman and the resident manager found the smoke detector had been disconnected. The letter noted three previous occasions on which the device had been found disconnected and gave warning that if the breach were to be repeated, the tenant would receive a Notice to End Tenancy.

When the smoke detector was found to be disconnected again in September 2010, the landlord issued the Notice to End Tenancy. The landlord's agents advised that they had contacted the tenant's mental health workers to advise them of their concerns and of the pending Notice to End Tenancy.

Analysis

Section 47(4) & (5) of the *Act* provides that a tenant may make application to contest a Notice to End Tenancy for cause within ten days of receiving it; otherwise, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice. The tenant's failure to make application alone entitles the landlord to an Order of Possession

However, I would note that by repeatedly disconnecting the smoke alarm despite previous and written warnings, I find that the tenant has jeopardized the safety of other occupants and the lawful rights of the landlord in breach of section 47(1)(d)(2).

In addition, I would note that the landlord's agents appear to have made every reasonable effort to resolve this matter before initiating proceedings to end the tenancy.

Therefore, I find that the landlord is entitled to an Order of Possession to take effect at 1 p.m. on November 30, 2010 as requested.

Conclusion

The landlord's copy of this decision is accompanied by an Order of Possession, enforceable through the Supreme Court of British Columbia, effective at 1 p.m. on November 30, 2010.

November 17, 2010