



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes OPC, FF

Introduction

This conference call hearing was convened in response to the landlord's application for an Order of Possession for cause and to recover the filing fee associated with this application.

Both parties attended the hearing and provided affirmed testimony. They were given a full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to recover the filing fee?

Background and Evidence

The rental unit consists of a one bedroom apartment. Pursuant to a written agreement, the month to month tenancy started on August 1st, 2009. The monthly rent of \$775.00 was payable on the first of each month and the tenant paid a security deposit of \$390.00.

The landlord testified that the tenant has been late paying rent from the start of the tenancy. The landlord supported this claim by providing copies of the latest rent cheques from the tenant, showing the following payment dates:

- December 2010 cheque dated December 10th.
- January 2011 cheque dated January 21st. (returned NSF from the bank)
- February 2011 cheque dated February 18th.
- March 2011 cheque dated March 4th.

The tenant did not dispute that she has been late paying rent for the last two years. She testified that she did not receive the landlord's 1 Month Notice to End Tenancy until March 10th, and that RTB informed her that the termination date of March 31st was premature. She said that she will move by April 31st, 2011, which is the earliest date that complies with the Act.

The landlord did not rebut the tenant's evidence and agreed to an order of possession effective April 31st, 2011.

Analysis

S 53(2) of the Act states that if the effective date in the notice is earlier than the earliest date permitted under the applicable section, the effective date is deemed to be the earliest date that complies with the section. Based on the parties' testimony, the earliest date in this matter was agreed to be April 31st, 2011.

The parties also agreed to discuss the possibility of an early move out date, the return and the amount of the security deposit as well as any balance of rent owed for April 2011 between one another.

Conclusion

I grant the landlord an Order of Possession effective April 30th, 2011. If necessary, this Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

Since the landlord was successful, she is entitled to recover the \$50.00 filing fee which I authorize her to deduct from the tenant's security deposit.

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: April 05, 2011.

Residential Tenancy Branch