

DECISION

Dispute Codes: OPC and FF

Introduction

By application of May 27, 2011, the landlords seek an Order of Possession pursuant to a one-month Notice to End Tenancy for cause served in person on April 29, 2011 and setting and an end of tenancy date of June 30, 2011. The landlords also seek to recover the filing fee for this proceeding.

Issues to be Decided

This application requires a decision on whether the landlords are entitled to an Order of Possession and recovery of the filing fee for this proceeding.

Background and Evidence

This tenancy began on October 15, 2010. Rent is \$950 per month and the landlords hold a security deposit of \$475 paid on October 15, 2010.

During the hearing, the landlords gave evidence that the Notice to End Tenancy had been served for cause, among others, that the tenants had been repeatedly late paying rent.

The tenants did not contest the landlord's evidence that for each month of 2011, the rent had been paid late although only by one to three or four days. The tenants stated that if the landlords had expressed concern, they would have made certain the rent was paid on time.

Analysis

Section 47(1)(b) of the *Act* provides that a landlord may service a one-month Notice to End Tenancy if a tenant is repeatedly late paying rent. The standard bench mark for determining repeated late payment is three instances within the previous 12 months. In the present matter, the tenants have been late on five occasions, albeit only marginally.

Section 47(4) and (5) of the *Act* state that a tenant may make application to contest a notice to end tenancy for cause within 10 days of receiving it, or the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must vacate by that date. In the present matter, the tenants did not make application to contest the notice.

Therefore, I find that the landlords are entitled to an Order of Possession to take effect at 1 p.m. on June 30, 2011 as stated on the Notice to End Tenancy.

Having found that the tenancy ends on the issue of repeated late payment and the absence of an application by the tenants to contest the notice, I find no need to canvass any other causes indicated on the landlords' application.

As the landlords' application has succeeded on its merits, I find that they are entitled to recover the filing fee for this proceeding from the tenants. I hereby order, pursuant to section 72(2)(b) of the *Act*, that the landlords may retain \$50 from the tenants' security deposit for this purpose

Conclusion

The landlords' copy of this decision is accompanied by an Order of Possession, enforceable through the Supreme Court of British Columbia, to take effect at 1 p.m. on June 30, 2011.

The landlords may retain \$50 from the tenant's security deposit to recover the filing fee for this proceeding.

June 20, 2011