

Decision

Dispute Codes: CNE, CNR

Introduction

This hearing was convened in response to the tenant's application for cancellation of a notice to end tenancy for end of employment / and cancellation of a notice to end tenancy for unpaid rent or utilities. The landlord / respondent was in attendance at the start time of the hearing which was 1:30 p.m., however, as at 1:40 p.m. the tenant / applicant had still not appeared.

During the hearing the landlord made an oral request for an order of possession.

Issues to be decided

- Whether either party is entitled to any of the above under the Act

Background / Evidence

Following the end of a 2 year employment contract on February 28, 2011, the provision of accommodation in conjunction with employment also ended. Thereafter, the parties entered into a written month-to-month tenancy agreement effective March 7, 2011. Monthly rent of \$550.00, is due and payable "on or before the first day of each applicable month." No security deposit was collected.

Arising from rent which was unpaid when due on June 1, 2011, the landlord issued a 10 day notice to end tenancy for unpaid rent dated June 2, 2011. The notice was served in person on the tenant on that same date. A copy of the notice was submitted into evidence. Subsequently, while the tenant filed an application to dispute the notice on June 14, 2011, the tenant made no further payment toward rent and continues to reside in the unit.

Analysis

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent dated June 2, 2011. The tenant did not either pay the outstanding rent within 5 days of receiving the notice, or apply to dispute the notice within 5 days of receiving it.

Further, the tenant did not apply for more time to file an application to dispute a notice to end tenancy. The tenant is therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the notice.

Pursuant to section 55 of the Act, during the hearing the landlord made an oral request for an order of possession. As a result of all the foregoing, I find that the landlord has established entitlement to an order of possession, and the tenant's application for cancellation of a notice to end tenancy is hereby dismissed.

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **two (2) days** after service on the tenant. This order must be served on the tenant. 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 tenant's application is hereby dismissed.

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*.

DATE: July 6, 2011

Residential Tenancy Branch