

## **Decision**

**Dispute Codes:** OPR

### **Introduction**

This hearing was convened in response to an application by the landlord for an order of possession. The landlord participated in the hearing and gave affirmed testimony.

The landlord testified that the application for dispute resolution and notice of hearing were served on the tenant by way of registered mail. However, despite this, the tenant did not appear.

### **Issues to be decided**

- Whether the landlord is entitled to an order of possession under the Act

### **Background and Evidence**

There is no copy of a written tenancy agreement in evidence for this tenancy which the landlord testified has been on-going for approximately 10 years. Currently, monthly rent of \$550.00 is due on the first day of each month. The landlord testified that only \$375.00 of this amount is paid by the Ministry, and that the tenant is chronically remiss in paying the balance of \$175.00.

While the landlord testified that a security deposit was collected at the start of tenancy, during the hearing she was unable to confirm the exact amount.

Arising from rent which remained overdue on July 1, 2011, the landlord issued a 10 day notice to end tenancy for unpaid rent dated July 2, 2011. The notice was served in person on the tenant on that same date. A copy of the notice was submitted into evidence and shows that the amount of \$465.00 is overdue. Subsequently, the tenant made payment toward rent limited to \$375.00. Evidence submitted by the landlord includes a copy of a receipt dated July 21, 2011 which was issued to the tenant following the above payment; the receipt clearly reads: "use and occupancy only." As for August's rent, the landlord testified that payment has been limited to only \$375.00.

### **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 July 2, 2011. The tenant did not pay the full amount of rent outstanding within 5 days of receiving the notice and did not apply to dispute the notice. 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. Accordingly, I find that the landlord is entitled to an order of possession.

In this application, the landlord does not seek a monetary order as compensation for unpaid rent, or recovery of the filing fee. As earlier noted, simply the landlord seeks to end the tenancy pursuant to service of an order of possession.

### **Conclusion**

I hereby issue an **order of possession** in favour of the landlord effective not later than **two (2) days** after service of this Order 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.

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: August 23, 2011

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Residential Tenancy Branch