

## DECISION

Dispute Codes      O, OPR

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for an early end to this tenancy and an Order of Possession, and for other reasons, described in his application as follows:

Tenant has not paid damage deposit.

Tenant is repeatedly late paying rent.

Tenant has unreasonably disturbed landlord and another occupant.

Tenant has damaged property over and above reasonable wear and tear.

Prior to the hearing, on August 26, 2011, the landlord amended his application for dispute resolution by removing reference to his request for an Order of Possession for an early end to this tenancy.

At the hearing, the tenant's agent, her father, testified that he and the tenant understood from the landlord's amended application for dispute resolution, the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice), and the landlord's receipts that the landlord was seeking an Order of Possession for Unpaid Rent at this hearing. As such, I allowed the landlord to amend his application for dispute resolution to include an application for an Order of Possession for unpaid rent pursuant to section 55 of the *Act*.

Both parties attended the hearing and were given a full opportunity to be heard, to present evidence and to make submissions. The tenant's agent confirmed that he witnessed the landlord serve the tenant with the 10 Day Notice on July 13, 2011. The landlord provided written and oral evidence that he handed the tenant a copy of the amended application for dispute resolution and dispute resolution hearing package on August 28, 2011. He entered written evidence attesting to his service of this material signed by two witnesses. The tenant's agent did not dispute that this package and amended application were served to the tenant as stated by the landlord. I am satisfied that the landlord served these documents to the tenant in accordance with the *Act*, that the tenant and her agent understood the nature of the landlord's application and the outcome that the landlord was seeking in making his application for dispute resolution.

### Issues to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent?

### Background and Evidence

This month-to-month tenancy commenced on May 15, 2011. Monthly rent is set at \$850.00, payable in advance on the first of each month. Although the parties agreed that the tenant has not paid a security deposit, they disagreed as to whether one was required by the landlord at the start of this tenancy.

The landlord issued the 10 Day Notice when he did not receive \$325.00 of the July 2011 rent on time. He entered written evidence of receipts for payments of \$525.00 on July 1, 2011, \$300.00 for use and occupancy on July 27, 2011 and \$25.00 received on July 31, 2011. The parties agreed that as of the date of the hearing, the only unpaid rent was for the entire month of September 2011.

The tenant's agent testified that he and the tenant were actively seeking new accommodations for the tenant but had been unable to find anything for her as yet. He testified that he was hopeful that they would locate suitable alternative housing for her within the next few days and that she would end her tenancy as soon as possible thereafter. He said that the tenant is planning to move and to pay the pro-rated amount of any monthly rental for September owing as a result of her tenancy.

### Analysis

Pursuant to section 63 of the *Act*, the dispute resolution officer may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During the hearing the parties discussed the issues between them, engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute. Both parties agreed to the following terms:

1. The parties agreed that the tenant will pay the pro-rated amount of rent for the month of September 2011 at a daily rate of \$28.33 for the number of days the tenant occupies the rental unit in September 2011.
2. The parties agreed that this tenancy will end on or before September 30, 2011 and that the tenant will vacate the rental premises by one o'clock in the afternoon on or before September 30, 2011.
3. Both parties agreed that these particulars comprise the full and final settlement of all aspects in dispute for both parties.

### Conclusion

To give effect to the settlement reached between the parties and as discussed at the hearing, I issue the attached Order of Possession to be used by the landlord if the tenant does not vacate the rental premises in accordance with their agreement. Should

the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

If the tenant does not comply with the financial terms of this agreement, the landlord may submit an application for dispute resolution to obtain additional Orders from the Residential Tenancy Branch.

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*.