

## **DECISION**

### **Dispute Codes:**

### **OPC**

### **Introduction**

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has made application for an Order of Possession for Cause and filing fee costs.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained and the parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to submit documentary evidence prior to this hearing, to present affirmed oral testimony and to make submissions during the hearing.

### **Issue(s) to be Decided**

Is the landlord entitled to an Order of possession for Cause?

### **Background and Evidence**

The parties agreed to the following facts:

- No later than August 4, 2011, the tenant received a 1 Month Notice Ending Tenancy for Cause, with an effective date of August 31, 2011;
- Rent was due on the first day of each month;
- The tenant did not dispute the Notice;
- The landlord agreed to the tenant's written request that the tenancy be extended to September, 30, 2011;
- The landlord agreed to allow the tenant to remain, as use and occupancy only, until September, 30, 2011;
- That the tenant has not vacated the unit.

Copies of the tenancy agreement, and communication between the tenant and landlord, that support the facts, were supplied as evidence.

The landlord stated they would like an Order of possession effective November 30, 2011, at 1 p.m. The tenant testified he cannot move until December 10, 2011.

### **Analysis**

I find that the tenant was given a 1 Month Notice ending his tenancy, no later than August 4, 2011. If the Notice was received on that date I find it would be effective September 30, 2011. I find that the landlord did not reinstate the tenancy and that the tenant failed to dispute the Notice. The landlord's written communication to the tenant

clearly indicated they would allow the tenant to remain until September 30, 2011, for use and occupancy only.

Section 47(5) of the Act provides:

*(5) If a tenant who has received a notice under this section does not make an application for dispute resolution in accordance with subsection (4), the tenant*

*(a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and*

*(b) must vacate the rental unit by that date.*

Therefore, I find that the Notice ending tenancy was effective no later than September 30, 2011; that the tenant did not dispute the Notice; that the landlord did not reinstate the tenancy and that the landlord is entitled to an Order of possession effective November 30, 2011, at 1 p.m.

As the landlord's application has merit I find that the landlord is entitled to filing fee costs in the sum of \$50.00.

### Conclusion

The landlord has been granted an Order of possession that is effective **at 1 p.m. on November 30, 2011**. This Order may be served on the tenant, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

Based on these determinations I grant the landlord a monetary Order for the \$50.00 filing fee costs. In the event that the tenant does not comply with this Order, it may be served on the tenant, filed with the Province of British Columbia Small Claims Court 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*.

Dated: November 21, 2011.

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Residential Tenancy Branch