



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

DECISION

Dispute Codes: OPR, MNR, & MNSD.

This hearing dealt with an application by the landlord for an Order of Possession and a monetary claim related to non-payment of rent by the tenant. The landlord also seeks to retain the tenant's security deposit plus interest in partial satisfaction of this claim. Although the tenant was served with notice of the landlord's application and this hearing in person on August 28, 2008, he failed to appear for the hearing.

Based on the uncontested evidence of the landlord, I accept that the tenant was served with a ten day Notice to End Tenancy due to non-payment of rent on August 22, 2008. The tenant had five days to either pay the full rental arrears or to file an application to dispute the notice. Having failed to exercise either of these rights the tenant is conclusively presumed to have accepted the end of the tenancy pursuant to section 46(5) of the *Act*.

On this basis I grant the landlord an Order of Possession effective **two (2) days** after it is served upon the tenant. This Order may be filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

I also accept that the tenant has failed to pay rent for the months of August and September 2008 for the sum of \$1,900.00. Although the landlord is also seeking a monetary claim related to outstanding utilities I have no evidence of the amount of the utilities or evidence that the landlord served the tenant with a thirty day demand letter to pay the utilities. Therefore, this portion of the landlord's application is dismissed with leave to re-apply. I also grant the landlord's request to recover the \$50.00 filing fee paid for this application from the tenant for a total monetary claim of \$1,950.00.

From this sum I Order that the landlord may retain the tenant's security deposit plus interest of \$450.92 in partial satisfaction of this claim. I grant the landlord a monetary Order for the remaining balance of **\$1,499.08**. This Order may be filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

Dated September 19, 2008.