



Dispute Resolution Services

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

DECISION

Dispute Codes: OPR, MNR, MNSD, & FF.

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 and to recover the \$50.00 filing fee paid for this application from the tenant.

Both parties appeared for the hearing and were provided the opportunity to be heard and respond to the evidence of the other party.

I accept the evidence provided by the parties that the tenant was served with a ten day Notice to End Tenancy due to non-payment of rent on August 6, 2008. The tenant had five days from receiving the notice to either pay the outstanding rent 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*.

Both the landlord and the tenant confirmed in the hearing that the tenant has paid all the outstanding rental arrears. However, the tenant failed to make these payments in the timeframe referenced above. The tenant made a partial payment on August 18, 2008 and the remaining portion on September 13, 2008. Therefore, the landlord no longer requires a monetary Order for non-payment of rent but still requests an Order of Possession.

I find that the landlord has the right to an Order of Possession effective **September 30, 2008 at 1:00 p.m.** based on section 46(5) and section 55 of the *Act*. This Order may be filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

Having granted the landlord's application, I Order that the tenant must pay the landlord \$50.00 recovering the filing fee for this application. I Order that the landlord may deduct the \$50.00 from the tenant's security deposit in satisfaction of this Order.

Dated September 25, 2008.