



Dispute Resolution Services

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

DECISION

Dispute Codes: OPR, MND, and MNR.

This hearing dealt with an application by the landlord for an Order of Possession and a monetary claim related to non-payment of rent. The landlord also seeks a monetary claim related to damage to the rental unit and recovery of the filling fee paid for this application.

I am dismissing the landlord's application for a monetary claim related to damage to the rental unit. The request for damages to the rental unit is premature because the tenancy is still active and a claim for damages cannot proceed until the tenancy has ended. The landlord has leave to re-apply for damages once the tenancy has ended.

In the absence of the tenants I accept the landlord's evidence that the tenants are in rental arrears for the sum of \$2,990.00. I also accept that the tenants were served with a ten day Notice to End Tenancy on July 31, 2008. The tenants had five days to either pay the outstanding rent in full or to file an application to dispute the notice. Having failed to exercise either of these rights the tenants are 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 has been served upon the tenants. This Order may be filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

I also accept the landlord's monetary claim for \$2,990.00 and the recovery of the \$50.00 filling fee for this application for the total sum of \$3,040.00. I grant the landlord a monetary Order for the sum of **\$3,040.00**. This Order may be filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

Dated September 17, 2008.