



# Dispute Resolution Services

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

## Decision

### Dispute Codes:

OPR, MNR, MNDC, MNSD, FF

### 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 Unpaid Rent, a monetary Order for unpaid rent, a monetary Order for money owed or for compensation for damage or loss under the *Residential Tenancy Act (Act)*, *Regulation*, or tenancy agreement, to retain all or part of the security deposit, and to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

The Agent for the Landlord stated that copies of the Application for Dispute Resolution and Notice of Hearing were sent to both Tenants via registered mail at the address noted on the Application, on October 03, 2008. A tracking number was provided. The Canada Post website shows the neither item was delivered to either of the Tenants. These documents are deemed to have been served in accordance with section 89 of the *Act*, however the Tenants did not appear at the hearing.

### Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to an Order of Possession for unpaid rent; to a monetary Order for unpaid rent; to keep all or part of the security deposit; and to recover the filing fee from the Tenant for the cost of the Application for Dispute Resolution, pursuant to sections 38, 55, 67, and 72 of the *Act*.

### Background and Evidence

The Landlord stated that the tenancy agreement requires the Tenants to pay monthly rent of \$760.00.

The Landlord stated that a ten (10) day Notice to End Tenancy for non-payment of rent, was posted on the front door of the rental unit on September 15, 2008. The Landlord did not submit a copy of the Notice to End Tenancy in evidence, and she stated that she did not have one before her during the hearing. She was unable to state the effective date of the Notice. The Landlord was provided with the opportunity to fax a copy of the

Notice to End Tenancy to me prior to the end of the business day on October 29, 2008. The Landlord had not forwarded a copy of the Notice prior to the end of the business day on October 29, 2008.

The Landlord stated that the Tenant still owes \$260.00 in rent from August of 2008, \$760.00 in rent from September of 2008, and \$760.00 in rent from October of 2008.

### Analysis

As the Landlord has not submitted a copy of the Notice to End Tenancy to me, I find that the Landlord has submitted insufficient evidence to establish that the Tenants were served with an effective Notice to End Tenancy. As I have been unable to view the Notice to End Tenancy that was served on the Tenant, and thereby established its validity, I find that I can not grant the Landlord an Order of Possession based on that Notice. I therefore dismiss the Landlord's application for an Order of Possession.

In the absence of evidence to the contrary, I find that the Tenant owes rent in the amount of \$1,780.00.

I find that the Landlords application has merit, and I find that the Landlord is entitled to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

### Conclusion

I find that the Landlord has established a monetary claim, in the amount of \$1,830.00, which is comprised on \$1,780.00 in unpaid rent and \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution.

Based on these determinations I grant the Landlord a monetary Order for the amount of \$1,830.00. 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.

The Landlord is authorized to retain an amount of this monetary claim that remains unpaid at the end of the tenancy from the security deposit paid by the Tenants.

Date of Decision: October 30, 2008