



# **Dispute Resolution Services**

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

## **Decision**

**Dispute Codes:** MNR MNSD OPR FF

## **Introduction**

This application was brought by the landlord seeking an Order of Possession pursuant to a Notice to End Tenancy for unpaid rent served September 10, 2008. The landlord also sought a Monetary Order for the unpaid rent, late fees and filing fee, and authorization to retain the security deposit in set off against the balance owed.

Despite being served with the Notice of Hearing sent by registered mail on September 30, 2008, the tenant did not call in to the number provided to enable her participation in the telephone conference call hearing. Therefore, it proceeded in her absence.

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

This application requires a decision on whether the landlord is entitled to an Order of Possession and the effective date, and whether a Monetary Order is due, the amount, and if the filing fee and off setting security deposit should be included.

## **Background and Evidence**

This tenancy began May 1, 2008. Rent is \$775 per month and the landlord holds a security deposit of \$387.50 paid on May 1, 2008.

During the hearing, the landlord gave evidence that the notice to end tenancy had been served when the tenant failed to pay the rent for September 2008. In the interim, the tenant has not paid the October rent and remains in the rental unit despite being served with the Notice to End Tenancy.

The landlord also seeks late fees of \$25 for each of August, September and October.

### **Analysis**

Section 46 of the *Act* which deals with notice to end tenancy for unpaid rent provides that a tenant may pay the overdue rent or make application for dispute resolution within five days of receiving the notice.

If the tenant does neither, they are presumed to have accepted that the tenancy ends on the date stated on the notice. In this matter, the tenant has not paid the rent and has not made application to dispute the notice.

Therefore, the landlord requested, and I find he is entitled to, an Order of Possession effective two days from service of it on the tenant. I further find that the landlord is entitled to a Monetary Order for the unpaid rent, late fees and filing fee for this proceeding and authorization to retain the security deposit in set off as follows:

September rent	\$775.00
October rent	775.00
Late fees for August, September and October @\$25 x 3	75.00
Filing fee	<u>50.00</u>
Sub total	\$1,675.00
Less retained security deposit	- 387.50
Less interest (May 1, 2008 to date)	- <u>2.87</u>
<b>TOTAL</b>	<b>\$1,284.63</b>

**Conclusion**

Thus, the landlord's copy of this decision is accompanied by an Order of Possession effective two days from service of it on the tenant, and a Monetary Order for \$1,284.63 for service on the tenant.

The Order of Possession is enforceable through the Supreme Court of British Columbia and the Monetary Order is enforceable through the Provincial Court of British Columbia.

Copies of Information Sheets on how to enforce the orders and copies of the Affidavit and Certificate of Service may be found at the Residential Tenancy Branch website at <http://www.rto.gov.bc.ca/>

Dated: October 28, 2008