



# 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

## **Introduction**

This hearing dealt with an application by the landlord for an order of possession, a monetary order for unpaid rent, an order to retain the security deposit in partial satisfaction of the claim, and recovery of the filing fee. The landlord's agent participated in the hearing and gave affirmed testimony. Despite being served in person with the application for dispute resolution and notice of hearing on November 20, 2008, the tenant did not participate in the hearing.

## **Issues to be Decided**

- Whether the landlord is entitled to an order of possession
- Whether the landlord is entitled to a monetary order under the *Act*

## **Background and Evidence**

Pursuant to a written residential tenancy agreement the term of tenancy is from August 1, 2008 to January 31, 2009. Rent in the amount of \$1,200.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$600.00. The tenant failed to pay rent for the month of November 2008. On November 3, 2008 the landlord served the tenant with a 10 day notice to end tenancy. The tenant further failed to pay rent in the month of December 2008.

The landlord submitted into evidence a copy of the 10 day notice to end tenancy dated November 3, 2008 which was served by insertion into the tenant's private mail box.

## **Analysis**

Based on the documentary evidence and undisputed testimony of the landlord's agent, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent. The tenant did not pay the outstanding rent within 5 days of receiving the notice and did not apply to dispute the notice. The tenant is therefore conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the notice. Based on the above facts I find that the landlord is entitled to an order of possession.

As for the monetary order, I find the landlord has established a claim for \$2,500.00 which is comprised of unpaid rent for November (\$1,200.00), unpaid rent for December (\$1,200.00), as well as two fees for late payment of rent and two fees for NSF cheques pursuant to the tenancy agreement (\$100.00). The landlord is also entitled to recovery of the \$50.00 filing fee (total claim: \$2,550.00). I order that the landlord retain the security deposit of \$600.00 and interest of \$3.30 in partial satisfaction of the claim, and I grant the landlord a monetary order under section 67 of the *Act* for the balance due of \$1,946.70.

## **Conclusion**

I hereby issue an order of possession in favour of the landlord effective not later than **two (2) days** after service upon the tenant. This order must be served on the tenant. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

I hereby grant the landlord a monetary order under section 67 of the *Act* for **\$1,946.70**. This order must be served on the tenant and may be filed in the Small Claims Court and enforced as an order of that Court.

DATE: December 10, 2008

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Dispute Resolution Officer

