

## **Decision**

### **Dispute Codes:**

OPC

MNR

FF

### **Introduction**

I have been delegated the authority under Section 9.1 of the *Residential Tenancy Act* (the “Act”) to hear this matter and decide the issues.

This Dispute Resolution Hearing was convened to deal with an Application by the Landlord for an Order of Possession based on the 10 day Notice to End Tenancy for Unpaid Rent or Utilities dated December 3, 2008, for a monetary order for unpaid rent and to recover the filing fee for the cost of this application.

I reviewed the evidence on the case file prior to the Hearing. The Landlords gave affirmed testimony at the Hearing and this Application proceeded on its merits.

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

At the beginning of the Hearing, the Landlords withdrew their application for an Order of Possession, as the Tenant has moved out of the rental unit. The Landlords proceeded with their application for a monetary order, plus reimbursement for the \$50.00 filing fee.

The issues to be determined based on the testimony and the evidence is:

- Whether the Landlord is entitled to a Monetary Order under Section 67 of the Act; and

- Whether the Landlord is entitled to recover the \$50.00 filing fee from the Tenant.

### **Background and Evidence**

The Landlord testified that she served the Tenant with the Notice to End Tenancy dated December 3, 2008 by serving the Tenant personally on December 3, 2008. She testified that she served the Tenant with the Application for Dispute Resolution filed on December 16, 2008, on December 17, 2008, by serving the Tenant personally.

The Landlord testified that the Tenant moved out of the rental unit prior to the end of December and that the rental unit has been re-rented as at January 1, 2009.

The Landlord testified that the Tenant paid a security deposit on June 14, 2008, in the amount of \$487.50. The monthly rent is \$975.00 and is due on the first of each month. The Landlord submitted that the Tenant paid \$487.50 towards December's rent on December 1, 2008, but that the cheque had subsequently been returned "payment stopped". Therefore, the Tenant has failed to pay rent for the month of December, 2008. The Landlord asked to recover the filing fee of \$50.00 from the Tenant.

### **Analysis**

The Tenant was served with the Application for Dispute Resolution and, although duly served, did not attend the Hearing.

The Landlord was successful in today's application and is therefore entitled to recover her filing fee in the amount of \$50.00.

The Landlord has established a total monetary claim of \$1,025.00, calculated as follows:

Arrears for December, 2008 rent:	\$975.00
Filing fee for this application:	\$50.00

\$1,025.00

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Pursuant to Section 72(2)(b) of the Act, I order that the Landlord retain the security deposit of \$487.50 plus interest of \$4.02, for a total of \$451.52 in partial satisfaction of the claim, leaving a balance due of \$573.48.

**Conclusion**

I grant the Landlord a monetary order under section 67 of the *Act* for \$573.48. This order must be served on the Tenant and may be filed in the Provincial Court of British Columbia (Small Claims) and enforced as an order of that Court.

January 19, 2009

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