

## **Decision**

### **Dispute Codes:**

OPR MNR MNSD FF MNDC

### **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 two 10 Day Notices to End Tenancy for Unpaid Rent or Utilities dated November 13, 2008 and December 15, 2008, for a monetary order for unpaid rent and loss of rent, to keep the security deposit; 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 Landlord and Tenant both gave affirmed evidence and this Application proceeded on its merits.

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

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

- Whether the Landlord is entitled to an Order of Possession under section 55 of the Act, based on the 10 day Notices to End Tenancy;
- Whether the Landlord is entitled to a monetary order under section 67 of the Act; and
- Whether the Landlord is entitled to recover the filing fee of \$50.00 from the Tenant.

## **Background and Evidence**

### **The parties agree, as follows:**

- The Landlord served the Tenant with the 10 Day Notice to End Tenancy dated November 13, 2008, by posting it to the door of the Tenant's residence on November 13, 2008.
- The Landlord served the Tenant with the 10 Day Notice to End Tenancy dated December 15, 2008, by posting it to the door of the Tenant's residence on December 15, 2008.
- The Landlord mailed the Tenant a copy of this Application together with the hearing package on December 19, 2008, by registered mail.
- The Tenant is in arrears of \$643.00 for each of the months of November, 2008, December, 2008 and January, 2009, for a total of \$1,929.00.
- The Tenant paid a security deposit in the amount of \$453.50 on August 25, 2008.

### **The Tenant's evidence:**

- The Tenant agreed that she was in arrears in the amount of \$1,929.00, but that she was unable to pay her rent because she had lost her job.
- The Tenant testified that she went to Social Services for aid, but they only gave her \$200.00 for November and \$400.00 for December because she had not been fired from her job.
- The Tenant is housed in subsidized housing, and testified that she gave the caretaker all of the information with regards to her financial/employment status.

The Landlord's evidence:

- The Landlord testified that the Housing Corporation was not provided with the necessary information regarding the Tenant's employment status change in order to increase the Tenant's subsidy. The Landlord stated that the Tenant is required, under paragraph 8(a) of the Tenancy Agreement, to provide the Housing Corporation with income verification when there is a change in the Tenant's income. The Landlord stated that the Tenant did not communicate with the Housing corporation, either written or orally, regarding her employment status. The Landlord stated that the caretaker is not authorized by the Housing Corporation to receive such information. The Landlord provided a copy of the Tenancy Agreement, dated August 11, 2008, and signed by both parties.

**Analysis**

The Landlord served the Tenant with the 10 day Notice to End Tenancy dated November 13, 2008, on November 13, 2008, by posting the Notice on the Tenant's door. Pursuant to section 90 of the Act, service of a document in this manner is deemed to be served on the 3<sup>rd</sup> day after it is posted. I find that the Tenant was served with the Notice to End Tenancy on November 16, 2008.

The effective date for the end of the tenancy was November 26, 2008. The Tenant did not apply to dispute the Notice and is therefore conclusively presumed under section 47(5) of the Act to have accepted that the tenancy ended on the effective date of November 26, 2008. I therefore find that the Landlord is entitled to an immediate Order of Possession.

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

I find that the the Landlord has established a total monetary claim of \$1,979.00, calculated as follows:

|   |                |
|---|----------------|
| Rent arrears for November, 2008             | \$643.00       |
| Loss of rent for December, 2008             | \$643.00       |
| Loss of rent for January, 2008              | \$643.00       |
| Recovery of filing fee for this application | <u>\$50.00</u> |
| TOTAL                                       | \$1,979.00     |

I order that the Landlord retain the security deposit of \$453.50, together with accrued interest in the amount of \$2.40 in partial satisfaction of the claim leaving a balance due to the Landlord of \$1,523.10.

### **Conclusion**

Under section 55 of the Act, and based on the above facts, the Landlord is entitled to an Order of Possession and I hereby issue the order. The Tenant will have two days from the date of service of the order to vacate the premises. This order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

I grant the Landlord a monetary order under section 67 of the *Act* for \$1,523.10. 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 20, 2009

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