

## **Decision**

**Dispute Codes:** OPR 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.

I reviewed the evidence on the case file prior to the Hearing. The Landlord gave affirmed testimony 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:

- Is the Landlord entitled to an Order of Possession for unpaid rent?
- Is the Landlord entitled to a monetary order for unpaid rent?
- Is the Landlord entitled to recover the filing fee of \$50.00 from the Tenant?

### **Background and Evidence**

The Landlord’s agent testified that the Tenants were served with the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated January 7, 2009, by posting a copy of the Notice on the door of the Tenants’ rental unit on January 7, 2009.

The Landlord’s agent testified that she mailed both Tenants copies of today’s Application and the Notice of Hearing package by registered mail on January 16, 2009. The Landlord provided copies of the registered mail receipts for the two registered mail packages, which indicate that the packages were mailed to the Tenants’ residence on January 16, 2009.

The Landlord’s agent testified that the monthly rent for the rental unit is \$891.00. The Landlord’s agent stated that the Tenants are in arrears of \$590.00 for the month of

January, 2009 and have not paid rent for the month of February, 2009, and are still occupying the rental unit.

The Landlord asked for an Order of Possession and a monetary order in the amount of \$1,531.00.

### **Analysis**

On the affirmed testimony of the Landlord, I am satisfied that the Tenants were served with the Notice to End Tenancy and the Application for Dispute Resolution.

Pursuant to Section 90 of the Act, the Tenant was deemed to have received the Notice to End Tenancy on January 10, 2009, three days after the Landlord left a copy of the Notice on the Tenants' door. The effective end of tenancy is therefore January 20, 2009. The Tenants did not pay the amount owing to the Landlord and did not dispute the Notice within 5 days of receiving the Notice. Therefore under Section 46 of the Act, the Tenants are presumed to have accepted that the Tenancy ended on January 20, 2009. The Landlord is entitled to an immediate order of possession and I make that order.

With respect to the Landlord's application for a monetary order, I find that the Landlord is entitled to damages for rent arrears for the month of January, 2009, in the amount of \$590.00. I find that the Landlord is entitled to loss of rent for the month of February, 2009, in the amount of \$891.00.

The Landlord has been successful in its application and is entitled to recover the filing fee from the Tenants.

I find that the the Landlord has established a total monetary claim of \$1,531.00 calculated as follows:

Rent arrears for January 2009	\$590.00
Loss of rent for February 2009	\$891.00
Recovery of the filing fee for today's application:	<u>\$ 50.00</u>
TOTAL	\$1,531.00
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### **Conclusion**

I grant the Landlord a monetary order under section 67 of the Act for \$1,531.00. This order must be served on the Tenants and may be filed in the Provincial Court of British Columbia (Small Claims) and enforced as an order of that Court.

Under section 55 of the Act, and based on the above facts I find that the Landlord is entitled to an Order of Possession and I hereby issue the order effective two days from service of the order. This order must be served on the Tenants and may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

February 25, 2009

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