



# Dispute Resolution Services

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

## **Decision**

**Dispute Codes:** OPR, MNR, MNDC, MNSD, FF

## **Introduction**

This hearing dealt with the landlord's application for an order of possession, a monetary order for unpaid rent, compensation for loss of rental income, retention of the security deposit in partial satisfaction of the claim, and recovery of the filing fee for this application. The tenant and agents for the landlord participated in the hearing and gave affirmed testimony.

## **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 month-to-month tenancy began November 1, 2008. Rent in the amount of \$450.00 is payable in advance on the first day of each month, and a security deposit of \$225.00 was collected on October 29, 2008.

The tenant failed to pay all rent due for the month of January 2009. Accordingly, the landlord served the tenant with a 10 day notice to end tenancy for unpaid rent.

Subsequently, while the tenant made partial payment toward January's rent, \$50.00 remains outstanding and the tenant further failed to pay rent for the month of February 2009.

The landlord submitted into evidence a copy of the 10 day notice dated January 2, 2009 which the parties agree was served in person on the tenant that same day.

## **Analysis**

Based on the documentary evidence and testimony of the parties, 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 which was January 12, 2009. Accordingly, 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 \$550.00. This is comprised of unpaid rent for January 2009 (\$50.00), unpaid rent / loss of rental income for February 2009 (\$450.00) and the \$50.00 filing fee for this application. I order that the landlord retain the security deposit of \$225.00 plus interest of \$.59, and I grant the landlord a monetary order under section 67 of the *Act* for the balance due of \$324.41 (\$550.00 - \$225.59)

## **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 **\$324.41**. This order may be served on the tenant, filed in the Small Claims Court and enforced as an order of that Court.

DATE: February 13, 2009

---

Dispute Resolution Officer