



Dispute Resolution Services

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

DECISION AND REASONS

Dispute Codes: OPR, MNR, MNSD, & FF

Introduction:

This hearing dealt with an application by the landlord for an Order of Possession and a monetary claim related to non-payment of rent by the tenants. The landlord stated in the hearing that he served the tenants' with notice of this hearing and application by registered mail. The landlord did not provide any evidence supporting the method of service. In the absence of any evidence to the contrary I accept that the tenants were served with notice of this hearing in accordance with sections 88 and 89. I proceeded with the hearing in the tenants' absence.

Issues to be Determined:

Is the landlord entitled to an Order of Possession due to non-payment of rent? Is the landlord entitled to a monetary claim related to non-payment of rent?

Background and Evidence:

In the absence of any evidence from the tenants, I accept the evidence of the landlord that the tenants were served with a 10 day Notice to End Tenancy due to non-payment of rent in person on January 2, 2009. I accept that the tenants did not pay the rent or file an application to dispute the notice in the 5 days provided pursuant to section 46(4) of the *Act*. Having failed to exercise either of these rights I find that the tenants have conclusively accepted the end of the tenancy pursuant to section 46(5) of the *Act*.

On this basis I grant the landlord's request for an Order of Possession effective **two (2) days** after it is served upon the tenants. This Order may be filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

I also accept that the tenants have failed to pay the rent owed for January 2009. I find that the landlord has established a total monetary claim of \$1,000.00 comprised of the outstanding rent for January 2009 for the sum of \$950.00 plus the recovery of the \$50.00 filing fee the landlord paid for this application. From this sum I Order that the landlord may retain the tenants' security deposit plus interest of \$479.77 in partial satisfaction of this claim.

I grant the landlord a monetary Order for the remaining balance owed of **\$520.23**. This Order may be filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

Conclusion:

I grant the landlord's application having found that the tenants' have breached the tenancy agreement by failing to pay rent.

Dated February 12, 2009.

Dispute Resolution Officer