

## **Decision**

**Dispute Codes:** OPR MNR FF MNSD

### **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.

Both parties 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 and to apply the security deposit together with accrued interest towards unpaid rent?
- Is the Landlord entitled to recover the filing fee of \$50.00 from the Tenant?

### **Background and Evidence**

The Landlord testified that he served the Tenant with the 10 Day Notice to End Tenancy at the Tenant’s residential address on January 6, 2009.

The Landlord testified that he served the Tenant with today’s Application and the Notice of Hearing package at the Tenant’s residential address on January 28, 2009.

The Landlord testified that Tenant is currently in arrears of rent in the amount of \$2,225.00.

The Tenant admitted service of the Notice to End Tenancy and Notice of Hearing package. The Tenant agreed that he is in arrears of \$2,225.00. The Tenant testified

that he did not make application to set aside the Notice to End Tenancy within 5 days of receipt of the Notice.

### **Analysis**

I am satisfied that the Landlord duly served the Tenant with the Notice to End Tenancy and the Application for Dispute Resolution.

The Tenant received the Notice to End Tenancy on January 6, 2009. The effective end of tenancy is therefore January 16, 2009. The Tenant 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 Tenant is presumed to have accepted that the Tenancy ended on January 16, 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, the Landlord has established a monetary order in the amount of \$2,225.00.

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

Pursuant to Section 72(2)(b) of the Act, the Landlord is entitled to apply the security deposit, together with accrued interest, towards the Landlord's monetary claim.

Therefore, I award a monetary order in favour of the Landlord in the amount of \$1,844.04, calculated as follows:

Loss of rent	\$2,225.00
Less security deposit and \$5.96 accrued interest	<\$430.96>
Recovery of filing fee for this application	<u>\$50.00</u>
TOTAL	\$1,844.04

**Conclusion**

I grant the Landlord a monetary order under section 67 of the Act for \$1,844.04. 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.

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 Tenant and may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

March 10, 2009

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