



# **Dispute Resolution Services**

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

## **DECISION**

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

### **Introduction**

This application was brought by the landlord seeking an Order of Possession pursuant to a 10-day Notice to End Tenancy for unpaid rent served in person on January 10, 2009. The landlord also sought a Monetary Order for the unpaid rent and filing fee for this proceeding, and authorization to retain the security deposit in set off against the balance owed.

At the commencement of the hearing, the landlord gave evidence that the tenants had moved out of the rental unit on February 7, 2009 and, therefore, withdrew the request for an Order of Possession.

Despite being served with the Notice of Hearing sent by registered mail on January 27, 2009, the tenants did not call in to the number provided to enable their participation in the telephone conference call hearing. Therefore, it proceeded in their absence.

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

This application requires a decision on whether the landlord is entitled to a Monetary Order, the amount, and whether the landlord may retain the security deposit in set off.

## **Background and Evidence**

This tenancy began December 15, 2008. Rent was \$1,250 per month and the landlord holds a security deposit of \$625 paid on December 15, 2008.

During the hearing, the landlord gave evidence that the Notice to End Tenancy was served when the tenants had not paid the rent for January 2009. In the interim, the tenants did not pay the rent for February 2009.

The landlord also stated that he had been unable to find new tenants for March 2009 even though he had begun advertising shortly after the tenants left. However, he stated that he had lost potential tenants due to a strong cat odor emanating from the rental unit below.

He said that the tenants had left the rental unit in an adequately clean state, but had not provided him with forwarding addresses.

## **Analysis**

I find that the landlord is entitled to a Monetary Order for the unpaid rent for January and February of 2009 and the filing fee for this proceeding, and authorization to retain the security deposit in set off. However, as it still remains possible that the landlord could find new tenants by mid-March, and as the subject tenants are not responsible for the odors from the suite below that contributed to the loss of potential new tenants, I decline to award March loss of rent.

Therefore, I find that the landlord is entitled to a Monetary Order for two months loss of rent and recovery of the filing fee and authorization to retain the security deposit in set off as follows:

January rent	\$1,250.00
February rent	1,250.00
Filing fee	<u>50.00</u>
Sub total	\$2,550.00
Less retained security deposit	- 625.00
Less interest (Feb. 27, 2008 to date)	- .44
<b>TOTAL</b>	<b>\$1,924.56</b>

## Conclusion

Thus, the landlord's copy of this decision is accompanied by a Monetary Order, enforceable through the Provincial Court of British Columbia, for \$1,924.56, for service on the tenants.

March 9, 2009

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Dispute Resolution Officer