



# **Dispute Resolution Services**

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

## **Decision**

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

## **Introduction**

This hearing dealt with an application from the landlord for an order of possession, a monetary order in compensation for unpaid rent, retention of the security deposit in partial satisfaction of the claim, and recovery of the filing fee for this application. The landlord's agent participated in the hearing and gave affirmed testimony. Despite being served by way of registered mail with the application for dispute resolution and notice of hearing, neither tenant appeared.

## **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 term of tenancy is from December 15, 2008 to March 31, 2009. Rent (including parking) in the amount of \$810.00 is payable in advance on the first day of each month, and a security deposit of \$400.00 was collected at the start of tenancy.

The tenants failed to pay rent for the month of January 2009. Accordingly, the landlord issued a 10 day notice to end tenancy for unpaid rent. Subsequently, the tenants failed to pay rent for February and March 2009.

The landlord submitted into evidence a copy of the 10 day notice dated January 29, 2009 which was delivered under the tenants' door on that same date.

## **Analysis**

Based on the documentary evidence and undisputed testimony of the landlord's agent, I find that the tenants were served with a 10 day notice to end tenancy for unpaid rent. The tenants did not pay the outstanding rent within 5 days of receiving the notice and did not apply to dispute the notice. The tenants are 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 February 11, 2009. Accordingly, I find that the landlord is entitled to an order of possession.

As for the monetary order, I find that the landlord has established a claim of \$2,480.00. This is comprised of unpaid rent (including parking) of \$810.00 for each of January, February and March 2009, and recovery of the \$50.00 filing fee for this application. I order that the landlord retain the security deposit of \$400.00 plus interest of \$00.28, and I grant the landlord a monetary order under section 67 of the Act for the balance due of \$2,079.72 (\$2,480.00 – \$400.28).

## **Conclusion**

I hereby issue an order of possession in favour of the landlord effective not later than **two (2) days** after service upon the tenants. This order must be served on the tenants. Should the tenants 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 **\$2,079.72**. This order may be served on the tenants, filed in the Small Claims Court and enforced as an order of that Court.

DATE: March 26, 2009

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Dispute Resolution Officer