



# Dispute Resolution Services

Residential Tenancy Branch  
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 seeking an Order of Possession and a monetary claim related to non-payment of rent by the tenants. Although the tenants were served with notice of this application and hearing in person on March 25, 2009 they did not appear for the hearing. I proceeded with the hearing in the tenants' absence.

### Issues to be Determined

Is the landlord entitled to an Order of Possession based on non-payment of rent by the tenants? Has the landlord established a monetary claim related to non-payment of rent by the tenants?

### Background and Evidence

This tenancy began on July 1, 2007 for the monthly rent of \$750.00 and a security deposit of \$375.00 paid on June 25, 2007. The landlord also submitted that a pet deposit of \$200.00 was paid on July 20, 2007; however, the tenancy agreement was never adjusted to reflect this payment.

On March 4, 2009 the landlord posted a 10 day Notice to End Tenancy due to non-payment of rent on the door of the rental unit. Since the notice was served on the tenants, one payment of rent was made on April 1, 2009 for the sum of \$775.00. The landlord stated that a receipt for "use and occupancy only" was provided to the tenants but did not provide a copy of the receipt for the hearing. As of the date of this hearing the landlord submitted that the tenants have failed to pay the rent owed for April and May 2009 and \$50.00 in late payment fees pursuant to the tenancy agreement.

The landlord seeks an Order of Possession and a monetary claim due to the tenants' failure to pay rent. The landlord also seeks to retain the tenants' pet and security deposits in partial satisfaction of this monetary claim.

### Analysis

I am satisfied that the tenants were served with the 10 day Notice to End Tenancy due to non-payment of rent when it was posted to the door of the rental unit. The tenants had five days after receiving the notice to either pay the outstanding rent in full or to file an application for Dispute Resolution to dispute the notice. Having failed to exercise

either of these rights the tenants are conclusively presumed to have accepted the end of the tenancy pursuant to section 46(5) of the *Act*.

On this basis I grant the landlord 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 find that the landlord has established a total monetary claim for the sum of \$1,600.00 comprised of outstanding rent for April and May 2009 for the sum of \$1,500.00, \$50.00 in late payment of rent fees for April and May 2009 plus the recovery of the \$50.00 filling fee paid by the landlord for this application. From this sum I Order that the landlord may retain the tenants' pet and security deposits plus interest for the sum of \$597.97 in partial satisfaction of this claim.

I grant the landlord a monetary Order for the remaining balance owed of **\$1,012.03**. This Order may be filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

### Conclusion

The landlord's application is granted based on the tenants' failure to pay rent.

Dated May 20, 2009.

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Dispute Resolution Officer