

## **DECISION**

Dispute Codes      OPR MNR FF

### Introduction

This hearing proceeded by way of Direct Request Proceeding, pursuant to section 74(2)(b) of the *Residential Tenancy Act* (the Act).

### Preliminary Matter

On May 15, 2009, the Landlords provided written evidence to the file, advising that the Tenant moved out of the rental unit. Therefore the Landlords' application for an Order of Possession is dismissed.

### Issue(s) to be Decided

The issues to be decided are whether the Landlords are entitled to a monetary Order for unpaid rent; and to recover the filing fee from the Tenants for the cost of the Application for Dispute Resolution, pursuant to Sections 67, and 72 of the Act. I have reviewed all documentary evidence submitted by the Landlords.

### Background and Evidence

The Landlords submitted the following evidentiary material:

- A copy of a residential tenancy agreement which was signed by the parties on March 28, 2008, indicating a monthly rent of \$730.00 due on the first of the month. The Tenants paid a security deposit of \$365.00 to the Landlords sometime in April, 2008 (exact date not given);
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on May 7, 2009, with an effective vacancy date of May 18, 2009 for \$802.00 in unpaid rent, NSF and late charges;

- A calculation of the amount owing to the Landlord, which states the Tenant owes \$757.00 in unpaid rent, \$20.00 for late fees and \$25.00 in bank charges for an NSF cheque;
- A copy of the Tenant's returned rent cheque dated May 1, 2009, in the amount of \$747.00, marked "payment stopped";
- A copy of the Tenant's notice to end the tenancy, dated April 23, 2009 and effective June 1, 2009, requesting return of the security deposit and providing the Tenant's forwarding address.
- A copy of the Proof of Service of the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities;
- A copy of the Landlords' Application for Dispute Resolution, filed May 13, 2009; and
- A copy of the Proof of Service upon the Tenant of the Notice of Direct Proceeding.

### Analysis

The proof of service document for the 10 Day Notice is incomplete. It does not disclose the method or date of service of the document upon the Tenant. However, this is not an issue as the Tenant has vacated the premises, and therefore the Landlord does not require an Order of Possession.

I am satisfied that the Landlords duly served the Tenant with the Notice of Direct Request Proceeding documents, by registered mail, to the Tenant's forwarding address, on May 15, 2009.

The evidence does not disclose whether or not the Landlords returned the security deposit together with accrued interest to the Tenant, in accordance with the Tenant's

request. Any security deposit that may currently be held by the Landlords, in trust for the Tenant, must be dealt with in accordance to Section 38 of the Act.

The Tenancy Agreement allows for a late payment of rent charge in the amount of \$20.00, and a recovery of bank fees for dishonoured cheques in the amount of \$25.00. The Landlords have established a Monetary Order, as follows:

Unpaid Rent for May, 2009	\$757.00
Recovery of Bank charge for stopped payment	\$25.00
Late payment of rent charge	\$20.00
Filing fee	50.00
<b>TOTAL AMOUNT DUE TO THE LANDLORD</b>	<b>\$852.00</b>

### Conclusion

The Landlords' application for an Order of Possession is dismissed.

I HEREBY FIND in favor of the Landlords' monetary claim in the amount of \$852.00 against the Tenant. 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.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: May 20, 2009.

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