



## Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing and Social Development

### **DECISION**

Dispute Codes      OPR, MNR, MND, FF

#### Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an Order of Possession, a Monetary Order to recover unpaid rent, a Monetary Order for damage to the unit and a Monetary Order to recover the filing fee.

Service of the hearing documents was done in accordance with section 89 of the *Act*, and were hand delivered to the tenant on April 30, 2009. I find that the tenant was properly served pursuant to s. 89 of the *Act* with notice of this hearing and the hearing proceeded in the tenants' absence.

The landlords appeared, were provided the opportunity to present their evidence orally, in written form, documentary form and make submissions to me. On the basis of the evidence presented at the hearing I have determined:

#### Issues(s) to be Decided

- Whether the landlord is entitled to an Order of Possession?
- Are there arrears of rent and if so, how much?
- Is the landlord entitled to a Monetary Order for damage to the rental unit?
- Whether the landlord is entitled to a Monetary Order to recover the filing fee?

### Background and Evidence

This tenancy started on October 20, 2008. The landlords operate a Motor Inn and during off season they rent out rooms by the month. Therefore they are governed by the *Residential Tenancy Act*. When the tenant moved into the unit his rent was \$800.00 per month payable on the 1<sup>st</sup> of each month. On April 01, 2009 the landlords reduced the rent to \$725.00 because the tenant had difficulty paying his rent in full each month. The tenant has outstanding rent for April, 2009 of \$679.58 and has not paid rent for May or June, 2009 of \$1,450.00. The landlord served the tenant with a 10 Day Notice to End Tenancy on April 06, 2009.

The landlords state that they have found out that the tenant has been keeping a cat in his room which directly contravenes the rules. They are concerned about the cat being left for days in the room on its own while the tenant goes away on trips. They have requested a Monetary Order for damages that the tenant or his cat have done and state that the carpet will have to be replaced. They are unsure of how much damage or cleaning will need to be done until the tenant moves out.

### Analysis

I accept that the tenant was served the 10 Day Notice to End Tenancy for unpaid rent, pursuant to section 88 of the *Residential Tenancy Act*. The Notice states that the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant did not pay the rent nor apply to dispute the Notice to End Tenancy within five days.

Based on the foregoing, I find that the tenant is conclusively presumed, under section 46(5) of the *Act*, to have accepted that the tenancy ended on the effective date of the Notice and grant the landlord an order of possession.

I find that the landlords are entitled to recover rent arrears for April, 2009 of \$679.58 and rent arrears for May and June, 2009 of 1,450.00. As the landlords have succeeded in large in this matter, they are also entitled to recover their \$50.00 filing fee for this proceeding. The landlord will receive a monetary order for the balance owing of **\$2179.58**

The landlords state that the tenant has damaged the rental unit and request a Monetary Order to pay for the costs incurred. However, they are unable to provide any evidence at this time to support this section of their claim. Therefore, I dismiss this section of their claim with leave to reapply.

#### Conclusion

An Order of Possession has been issued to the landlord. A copy of the Orders must be served on the tenant and the tenant must vacate the rental unit **two days** after service. The Order of Possession may be enforced in the Supreme Court of British Columbia.

A Monetary Order in the amount of **\$2,179.58** has been issued to the landlord and a copy of it must be served on the tenant. If the amount of the order is not paid by the tenant, the Order may be filed in the Provincial (Small Claims) Court of British Columbia 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: June 03, 2009.

---

Dispute Resolution Officer