



# Dispute Resolution Services

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

## **Decision**

**Dispute Codes:** OPR, MNR, MNSD / CNR, MNDC, ERP, RP, LRE, RR, FF

## **Introduction**

This hearing dealt with two applications: 1) from the landlord for an order of possession, a monetary order as compensation for unpaid rent, retention of the security deposit in partial satisfaction of the claim, and recovery of the filing fee for this application; 2) from the tenant for cancellation of the notice to end tenancy, a monetary order as compensation for damage or loss under the Act, orders against the landlord to make repairs, provide services or facilities required by law, suspending or setting conditions on the landlord's right to enter the unit, permitting the tenant to reduce rent for repairs and so on, and recovery of the filing fee for this application. The landlord's agent participated in the hearing and gave affirmed testimony.

As the tenant has not vacated the unit and no inspection of the unit has therefore recently taken place, the landlord set aside for the present time the aspect of this application for a monetary order as compensation for costs associated with potential damage to the unit.

Despite being served in person on May 1, 2009 with the application for dispute resolution and notice of hearing, the tenant did not appear. Further, in spite of the scheduling of this hearing in response also to an application from the tenant for dispute resolution, he did not appear.

## **Issues to be Decided**

- Whether the landlord is entitled to an order of possession and a monetary order under the Act

- Whether the tenant is entitled to cancellation of the notice to end tenancy, a monetary order under the Act, and various orders against the landlord

### **Background and Evidence**

There is no formal written residential tenancy agreement in place for this month-to-month tenancy which began on or about October 1, 2008. Rent in the amount of \$800.00 is payable in advance on the first day of each month, and a security deposit of \$400.00 was collected on or about October 1, 2008.

The tenant failed to pay rent for the month of April 2009. Accordingly, the landlord issued a 10 day notice to end tenancy for unpaid rent. The landlord submitted into evidence a copy of the 10 day notice dated April 22, 2009 which was posted on the tenant's door on that same date. Subsequently, the tenant failed to pay rent for either April or May 2009.

### **Analysis**

Based on the documentary evidence and undisputed testimony of the landlord's agent, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent. The tenant did not pay the outstanding rent within 5 days of receiving the notice and did not appear at the hearing to dispute the notice. The tenant is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice which was May 7, 2009. Accordingly, the tenant's application for cancellation of the notice to end tenancy is dismissed, and I find that the landlord is entitled to an order of possession.

Further, as the tenant did not participate in the hearing after being duly served with the hearing package, all other aspects of the tenant's application are also dismissed.

As for the monetary order, I find that the landlord has established a claim of \$1,650.00. This is comprised of unpaid rent of \$800.00 for April 2009, unpaid rent of \$800.00 for May 2009, and recovery of the \$50.00 filing fee for this application. I order that the

landlord retain the security deposit of \$800.00 plus interest of \$3.02, and I grant the landlord a monetary order under section 67 of the Act for the balance due of \$846.98 (\$1,650.00 – \$803.02).

### **Conclusion**

The tenant's application is dismissed in its entirety without leave to reapply.

I hereby issue an order of possession in favour of the landlord effective not later than **two (2) days** after service upon the tenant. This order must be served on the tenant. Should the tenant 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 **\$846.98**. This order may be served on the tenant, filed in the Small Claims Court and enforced as an order of that Court.

DATE: June 1, 2009

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Dispute Resolution Officer