



# Dispute Resolution Services

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

## **Decision**

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

## **Introduction**

This hearing dealt with the landlord's application for an order of possession, a monetary order as compensation for unpaid rent, recovery of a fee for late payment of rent, retention of the security deposit in partial satisfaction of the claim, and recovery of the filing fee. Both parties participated in the hearing and gave affirmed testimony.

## **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 this tenancy is from April 1, 2009 to March 31, 2010. Rent in the amount of \$775.00 is due and payable on the first day of each month, and a security deposit of \$387.50 was collected at the outset of tenancy.

The landlord issued a 10 day notice to end tenancy for unpaid rent dated May 3, 2009, which was posted on the tenants' door on that same date. A copy of the notice was entered into evidence and the tenants acknowledge their receipt of same.

Subsequently, on or about May 29, 2009, the tenants paid rent in arrears for May. The tenants presently continue to reside in the unit and the parties agree that rent due for June 2009 remains outstanding.

## **Analysis**

Based on the documentary evidence and testimony of the parties, 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 would be May 16, 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 \$850.00. This is comprised of \$775.00 for June's rent, \$25.00 for the late payment of rent fee for June, and the \$50.00 filing fee for this application. I order that the landlord retain the security deposit of \$387.50 and I grant the landlord a monetary order under section 67 of the Act for the balance owed of \$462.50 (\$850.00 - \$387.50).

## **Conclusion**

Pursuant to all of the above, 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.

Pursuant to section 67 of the Act, I hereby issue a monetary order in favour of the landlord in the amount of **\$462.50**. Should it be necessary, this order may be served on the tenants, filed in the Small Claims Court and enforced as an order of that Court.

DATE: June 19, 2009

---

Dispute Resolution Officer