

## **DECISION**

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

### **Introduction**

This is the Landlord's application for an Order of Possession, a monetary order for unpaid rent; and to keep the security deposit.

I reviewed the evidence provided prior to the Hearing. The Landlord gave affirmed testimony and the Hearing proceeded on its merits.

### **Preliminary Matter**

At the onset of the Hearing, the Landlord testified that the Tenants vacated the rental unit on or about September 20, 2009. Therefore, her application for an Order of Possession is dismissed as withdrawn.

### **Issues to be Decided**

- Is the Landlord entitled to a monetary order, and if so, in what amount?

### **Background and Evidence**

The Landlord gave the following testimony:

- The rental unit is a manufactured home, owned by the Landlord.
- The Landlord served the Tenants with the Notice of Hearing documents on September 19, 2009, by registered mail.
- The tenancy agreement was a fixed term lease commencing August 15, 2009 and ending October 31, 2009. Rent was \$750.00 per month. The Tenants paid ½ months rent and the security deposit on August 8, 2009. Rent for the months of September and October was due on the first of each month.
- The Landlord was attempting to sell the manufactured home. The Tenants agreed to allow prospective buyers to view the manufactured home, on 24 hours notice.
- The Landlord issued a 10 day Notice to End Tenancy on September 2, 2009, for unpaid rent for the month of September. The Tenants put a "stop payment" on the rent cheque for September.

- The Landlord was not able to re-rent the manufactured home for October 1, 2009, because of cleaning and repairs that were required to the manufactured home.
- The Landlord is applying for unpaid rent for the month of September and loss of rent for the month of October, 2009.

### **Analysis**

I am satisfied that the Tenants were served with the Notice of Hearing documents, pursuant to Section 89(1)(d) of the Act. Despite being served with the documents, the Tenants did not sign into the conference, and the Hearing proceeded in their absence.

The Landlord provided a copy of a handwritten tenancy agreement signed by one of the Tenants. It is interesting to note that the Landlord penned the words “non-refundable” beside the provision for a security deposit. The Landlord is warned that a security deposit must be applied in accordance with the provisions of the Act and cannot be arbitrarily kept by a landlord.

The Landlord provided a copy of the September rent cheque, noted “payment stopped”.

Based on the undisputed testimony of the Landlord, I find that the Landlord has established her claim for September, 2009 rent in the amount of \$750.00.

The Landlord requested damages for compensation for the loss of rent for the month of October. The Landlord testified that she was unable to re-rent the manufactured home for October 1, 2009, because of the damages and cleaning she had to do in order to make it tenant-ready. In the telephone conference, the Landlord made reference to damages the Tenant caused to the manufactured home. The Landlord did not apply for damages on her Application, and is at liberty to apply for damages including loss of rent for the month of October, should she choose to do so.

Pursuant to Section 72(2)(b) of the Act, the Landlord may retain the security deposit in partial satisfaction of her claim. No interest has accrued on the security deposit.

**Conclusion**

I hereby grant the Landlord a Monetary Order against the Tenants in the amount of \$375.00. This Order must be served on the Landlord 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: October 19, 2009.

---