

## Decision

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

### **Introduction**

This is the Landlord's application for an Order of Possession; a Monetary Order for unpaid rent; a Monetary Order for loss of rent; and to recover the filing fee for the cost of the application from the Tenant.

I reviewed the evidence provided by the Landlord prior to the Hearing. The Landlord's agent gave affirmed evidence and this matter proceeded on its merits.

### **Issue(s) to be Decided**

- (1) Service of the Notice to End Tenancy and the Notice of Hearing documents.
- (2) The Landlord's entitlement to an Order of Possession.
- (3) The Landlord's entitlement to a Monetary Order.

### **Background and Evidence**

#### Landlord's agent's testimony

The Landlord's agent testified that the Landlord's agent served the Tenant with the Notice to End Tenancy for Unpaid Rent or Utilities, by personally serving the Tenant at the Tenant's residence, on October 21, 2009.

The Landlord's agent testified that he mailed the Tenant the Application for Dispute Resolution and hearing package on October 21, 2009, by registered mail, to the Tenant's residential address. The Landlord provided a copy of the registered mail receipt and tracking number. The Landlord's agent testified that the Tenant was also

personally served with copies of the Notice of Hearing documents on October 21, 2009, at the Tenant's residence

The Landlord testified that:

- The tenancy started on March 6, 2008. The monthly rent is \$500.00, due on the first day of the month. The Tenant paid a security deposit to the Landlord in the amount of \$250.00 on March 6, 2008.
- The Tenant remains in the rental unit.
- The Tenant paid partial rent only for the month of August, 2009, in the amount of \$375.00, leaving a balance of \$125.00 owing. The Tenant has not paid any rent for the months of September and October, 2009. Landlord requested compensation for loss of rent for November, 2009.
- The Landlord asked for an Order of Possession and to recover the filing fee for the cost of the application from the Tenant.

### **Analysis**

I accept the Landlord's testimony that the Tenant was duly served with the Notice to End Tenancy. The Tenant did not pay the rental arrears or dispute the Notice to End Tenancy within 5 days of being served with the Notice to End Tenancy. Pursuant to Section 47(5) of the Act, the Tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice. The effective end to the tenancy was October 31, 2009. Therefore, the Landlord is entitled to an immediate Order of Possession and I make that order.

I accept the Landlord's testimony that he served the Tenant with the Notice of Hearing documents by registered mail to the Tenant's residence, on October 21, 2009. I also accept the Landlord's agent's affirmed testimony that the Tenant was personally served with the Notice of Hearing documents on October 21, 2009. In spite of being served with the Notice of Hearing documents, the Tenant did not appear at today's Hearing and the Hearing proceeded in his absence.

Based on the testimony of the Landlord's agent, and the absence of any evidence to the contrary from the Tenant, the Landlord has established the Landlords' monetary claim for rental arrears in the amount of \$1,125.00 for August, September and October, 2009, together with loss of rent for the month of November in the amount of \$500.00.

The Landlord has been successful in its application and is entitled to recover the filing fee in the amount of \$50.00 from the Tenant.

Pursuant to Section 72 of the Act, the Landlord may deduct the security deposit, together with any accrued interest, in partial satisfaction of its monetary claim.

The Landlord has established a monetary order, as follows:

Rent arrears	\$1,125.00
Loss of rent	\$500.00
Recovery of the filing fee	\$50.00
Less security deposit and interest of \$3.08	<u>&lt;258.08&gt;</u>
TOTAL amount due to Landlord after set off	\$1,416.92
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### **Conclusion**

I hereby grant the Landlord an Order of Possession **effective two days from service of the order**. This Order must be served on the Tenant and 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 in the amount of \$1,416.92 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.

November 27, 2009

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Date of Decision

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