

## **Decision**

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

### **Introduction**

This hearing dealt with an application from the landlord for an order of possession, a monetary order for unpaid rent, in addition to recovery of the filing fee. The landlord participated in the hearing and gave affirmed testimony.

The tenant did not attend the hearing, however, the application for dispute resolution and notice of hearing were sent to him by way of registered mail. While Canada Post's on-line tracking shows that the tenant did not take delivery of the package, pursuant to section 90 of the Act, the application for dispute resolution and notice of hearing are deemed to have been served.

### **Issues to be decided**

- Whether the landlord is entitled to any or all of the above under the Act

### **Background and Evidence**

Pursuant to a written residential tenancy agreement, the fixed term of tenancy is from September 1, 2009 to March 31, 2011. Rent in the amount of \$1,450.00 is payable on the fifth day of each month. A security deposit of \$725.00 was collected on September 22, 2009.

Arising from rent which was overdue for the months of October, November and December 2009, the landlord issued a 10 day notice to end tenancy for unpaid rent dated December 12, 2009. Subsequently, the tenant has made no further payment toward rent.

### **Analysis**

Based on the documentary evidence and undisputed testimony of the landlord, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent dated December 12, 2009. The tenant did not pay the full amount of outstanding rent within 5 days of receiving the notice and did not apply to dispute the notice. The tenant is therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the notice. 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 \$5,550.00. This is comprised of \$1,150.00 in unpaid rent for October 2009, \$4,350.00 combined in unpaid rent for November / December 2009 and January 2010 (3 x \$1,450.00), in addition to the \$50.00 filing fee.

The landlord did not apply to retain the security deposit of \$725.00 in partial satisfaction of the claim. In the result, I grant the landlord a monetary order under section 67 of the Act for \$5,550.00.

### **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 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.

Pursuant to section 67 of the Act, I hereby issue a monetary order in favour of the landlord in the amount of **\$5,550.00**. Should it be necessary, this order may be served on the tenant, filed in the Small Claims Court and enforced as an order of that Court.

DATE: January 7, 2010

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Dispute Resolution Officer