

## **DECISION**

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

### **Introduction**

These applications were brought by the landlord and the tenant.

By application of February 16, 2010, the landlord seeks an Order of Possession pursuant to a Notice to End Tenancy for unpaid rent served on February 9, 2010. The landlord also seeks a Monetary Order for the unpaid rent, recovery of the filing fee for this proceeding and authorization to retain the security deposit in set off against the balance owed.

By application of received February 12, 2010, the tenant seeks to have the Notice to End Tenancy set aside and recovery of the filing fee for this proceeding.

### **Issues to be Decided**

These applications require a decision on whether the Notice to End Tenancy should be set aside or upheld with an Order of Possession and whether the landlord is entitled to a Monetary Order for the unpaid rent and authorization to retain the security deposit in set off against the balance owed.

## **Background and Evidence**

This tenancy, in the basement of the rental building, began on November 15, 2009, subsequent to an agreement under which the tenant and his former spouse had lived in the rental building from November 1, 2008 to October 31, 2009.

The landlord gave evidence that he had permitted the tenant to remain using only the basement area for a couple of months and that rent was to be \$1,000 per month.

The tenant makes claim that there was an arrangement under which he would perform work on the property in lieu of rent, an agreement denied by the landlord.

Neither party has submitted any evidence.

## **Consent Agreement**

1. During the hearing, the parties agreed that the tenancy will end on April 30, 2010.
2. The tenant will pay the landlord \$750 in rent for April without delay.
3. The parties were advised and agree that the landlord will be issued with an Order of Possession, effective at 1 p.m. on April 30, 2010.
4. Without acknowledging that there is or was an agreement for work in lieu of rent, the landlord directs the tenant/service provider that services are not required.

Due to the lack of evidence submitted by both parties, I dismiss the landlord's monetary claim with leave to reapply.

I make no award with respect to the filing fees of either party.

## **Conclusion**

The landlord's copy of this decision is accompanied by an Order of Possession, enforceable through the Supreme Court of British Columbia, effective at 1 p.m. on April 30, 2010.

The monetary components of this application are dismissed with leave to reapply and the parties have been cautioned as to the need of evidence to support or refute such claims.

March 31, 2010