

## **DECISION**

Dispute Codes      OPR, MNR, FF  
                             CNR, FF

### Introduction

On May 4, 2010, I issued a Decision in which the Tenant's application to cancel a Notice to End Tenancy for Unpaid Rent or Utilities was dismissed and that the Landlord was thereby entitled to an Order of Possession. The Landlord was ordered to re-serve his application for unpaid rent on the Tenant by leaving a copy of it at the Kelowna Residential Tenancy Branch office which he did. The Tenant received those documents on or about May 18, 2010 and I find that he was served as required by s. 89 of the Act. At the hearing on May 4, 2010, each of the Parties was advised of the date and time for the adjourned hearing of the Landlord's application and each was mailed a new hearing notice. As a result, I find that the Tenant had notice of these proceedings and the hearing proceeded in his absence.

After serving the Tenant with his original application, the Landlord sought to amend his application to include a claim for cleaning expenses and served it in the same manner set out above. However, the Landlord was not given leave to amend his application and I find that the Tenant was not served with the amended application. Consequently, the Landlord will have to reapply for that relief.

### Issues(s) to be Decided

1. Are there arrears of rent and if so, how much?

### Background and Evidence

In the Decision issued on May 4, 2010, I found that rent in the amount of \$1,800.00 was unpaid for March, April and May 2010. The Landlord further claimed that the Tenant has arrears of rent of \$900.00 for June 2009. In particular, the Landlord said the Tenant paid only ½ of the rent because he intended to rent out the basement suite for that month but did not do so until July 2009.

The Landlord said that the Tenant moved out of the rental unit on or about May 12, 2010. The Landlord also said that he did not try to re-rent the rental unit because he intended to sell it and has sold it.

### Analysis

In the Decision I issued on May 4, 2010, I found that there were rent arrears for March and April 2010 in the total amount of \$3,600.00. I also find that the Landlord is entitled

to pro-rated rent for the month of May 2010 in the amount of \$696.77. In the absence of any evidence from the Tenant to the contrary, I further find that the Landlord is entitled to recover rent arrears for June 2009 in the amount of \$900.00.

As the Landlord has been successful in this matter, I find that he is entitled pursuant to s. 72 of the Act to recover his original \$50.00 filing fee for this proceeding. Given that the Landlord was not granted leave to file an amended application and that it was not served on the Tenant, I find that it would not be appropriate to award the Landlord the additional \$50.00 filing fee he paid for that purpose.

### Conclusion

A monetary order in the amount of **\$5,246.77** has been issued to the Landlord and a copy of it must be served on the Tenant. If the amount is not paid by the Tenant, the Order may be filed in the Provincial (Small Claims) Court of British Columbia 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: June 21, 2010.

---

Dispute Resolution Officer