## **DECISION**

Dispute Codes:

OPR, MNR, MNDC, MNSD, FF

Introduction

This hearing was scheduled in response to the Landlord's Application for Dispute Resolution, in which the Landlord has made application for an Order of Possession for Unpaid Rent, a monetary Order for unpaid rent, a monetary Order for money owed or compensation for damage or loss; to retain all or part of the security deposit, and to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

Both parties were represented at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present relevant oral evidence, to ask relevant questions, and to make relevant submissions to me.

Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to an Order of Possession for unpaid rent; to a monetary Order for unpaid rent, including unpaid rent up to the date of the hearing; to keep all or part of the security deposit; and to recover the filing fee from the Tenant for the cost of the Application for Dispute Resolution, pursuant to sections 38, 55, 67, and 72 of the *Residential Tenancy Act (Act).*

Background and Evidence

The Agent for the Landlord and the Tenant agreed that this tenancy began on July 27, 2002; that the Tenant was required to pay monthly rent of $880.00 during the latter portion of this tenancy; that rent is due on the first day of each month; and that the Tenant paid a security deposit of $425.00 on July 16, 2002.

The Agent for the Landlord and the Tenant agreed that the Tenant did not pay rent when it was due on May 01, 2010 and that he did not pay rent for May until May 28, 2010, at which time he was issued a receipt that indicated the rent payment did not reinstate the tenancy.

The Agent for the Landlord and the Tenant agree that a Ten Day Notice to End Tenancy for Unpaid Rent, which had an effective date of May 23, 2010, was posted on the Tenant's door on May 10, 2010  The Notice declared that the Tenant owed $880.00 in rent that was due on May 01, 2010.

Analysis

I find that the Tenant entered into a tenancy agreement with the Landlord and that he is currently required to pay monthly rent of $880.00 on the first day of each month. Section 26(1) of the *Act* requires tenants to pay rent to their landlord when it is due.

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that the Tenant did not pay rent when it was due on May 01, 2010, until May 28, 2010; that he did not pay any of the rent that was due for June nor any of the rent that was due for July. As he is required to pay rent pursuant to section 26(1) of the *Act*, I find that the Tenant must pay $1,760.00 in outstanding rent to the Landlord.

If rent is not paid when it is due, section 46(1) of the *Act* entitles landlords to end the tenancy within 10 days if appropriate notice is given to the tenant. I find that the Tenant was served with a Notice to End Tenancy that declared the Tenant must vacate the rental unit by May 23, 2010, pursuant to section 46 of the *Act.*

Section 46 of the Act stipulates that a Tenant has five (5) days from the date of receiving the Notice to End Tenancy to either pay the outstanding rent or to file an Application for Dispute Resolution to dispute the Notice. In the circumstances before me I have no evidence that the Tenant exercised either of these rights and, pursuant to section 46(5) of the *Act*, I find that the Tenant accepted that the tenancy has ended. On this basis I find that the Landlord is entitled to an Order of Possession.

I find that the Landlord's application has merit and that the Landlord is entitled to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

I find that the Landlord is entitled to retain the Tenant's security deposit plus interest, in the amount of $440.06, in partial satisfaction of the monetary claim.

Conclusion

I hereby grant the Landlord an Order of Possession that is effective at 1:00 p.m. on July 31, 2010. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia, and enforced as an Order of that Court.

I find that the Landlord has established a monetary claim, in the amount of $1,810.00, which is comprised of $1,760.00 in unpaid rent and $50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution. The Landlord will be retaining the Tenant's security deposit plus interest, in the amount of $440.06, in partial satisfaction of the monetary claim.

Based on these determinations I grant the Landlord a monetary Order for the balance of $1,369.94. In the event that the Tenant does not comply with this Order, it may be

served on the Tenant, filed with the Province of British Columbia Small Claims Court 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: July 12, 2010.

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Dispute Resolution Officer