

## **DECISION**

### **Dispute Codes:**

**OPR, MNR, 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, 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.

The landlord's spouse provided affirmed testimony that on June 9, 2010; she personally served the tenant with Notice of the hearing, at the rental unit, with a neighbour present as a witness. The landlord gave his wife the Notice and documents for service after he received them at approximately noon on June 9, 2010; his wife then served the documents on the same day.

These documents are deemed to have been served in accordance with section 89 of the Act; however the Tenant did not appear at the hearing.

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

Is the landlord entitled to an Order of possession for unpaid rent?

Is the landlord entitled to a monetary Order?

May the landlord retain the deposit paid by the tenants?

Is the landlord entitled to filing fee costs?

### **Background and Evidence**

The tenancy commenced on March 1, 2009, rent is currently \$570.00 per month. On March 1, 2009 the tenant paid a deposit in the sum of \$350.00; she had a larger unit at the time, at a higher rent.

The tenant last paid rent owed in April, 2010; the landlord is claiming unpaid rent for May to July, 2010, inclusive in the sum of \$1,710.00.

The landlord issued the tenant a One Month Notice ending the tenancy for cause. The landlord has not issued the tenant a 10 Day Notice for unpaid rent. The landlord did not submit a copy of the Notice as evidence for this hearing.

### Analysis

The landlord has Applied for an Order of possession based upon a 10 Day Notice ending tenancy for unpaid rent. The landlord issued the tenant a 1 Month Notice ending tenancy for cause. During the hearing I explained that the Application must reflect the correct reasons in relation to the Notice issued and that the landlord must ensure that a copy of the Notice is provided as evidence in advance of the hearing.

Therefore, in the absence of an Application requesting an Order of possession based upon a 1 Month Notice and, in the absence of 1 10 Day Notice issued for unpaid rent; I find that the landlord's request for an Order of possession is dismissed. The landlord is at liberty to issue a 10 Day Notice and to submit another Application for dispute resolution requesting an Order of possession based upon the 1 Month Notice and/or a 10 Day Notice.

In the absence of the tenant at this hearing, I find that the landlord has not received payment for rent owed from May to July, 2010, inclusive and that the landlord is entitled to a monetary Order in the sum of \$1,710.00.

I find that the landlord is entitled to retain the tenant's security deposit, in the amount of \$350.00, in partial satisfaction of the monetary claim.

As the landlord's Application has merit I find that the landlord is entitled to filing fee costs.

### Conclusion

I find that the landlord has established a monetary claim, in the amount of \$1,760.00, which is comprised of \$1,710.00 unpaid rent from May to July, 2010, inclusive 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, in the amount of \$350.00, in partial satisfaction of the monetary claim.

Based on these determinations I grant the landlord a monetary Order for the balance of \$1,410.00. 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 26, 2010.

---

Dispute Resolution Officer