

## DECISION

Dispute Codes      OPR, MNR, MNSD, MNDC, FF

### Introduction

This hearing dealt with an application by the landlord for an order of possession for unpaid rent, a monetary order for unpaid rent, to keep all or part of the security deposit, money owed or compensation for damage or loss and recovery of the filing fee. The landlord participated in the conference call hearing but the tenants did not. The landlord presented evidence that the tenants were served with the application for dispute resolution and notice of hearing documents. I found that the tenants had been properly served with notice of the landlord's claim and the date and time of the hearing and the hearing proceeded in their absence.

### Issues to be Decided

Is the landlord entitled to any of the above under the Act.

### Summary of Background and Evidence

This fixed term tenancy started May 15, 2010 with rent of \$1695.00, the tenant paid a security deposit of \$847.50. On January 4, 2011 the landlord served the tenants with a 10 Day Notice to End Tenancy for Unpaid Rent.

The landlord testified that the tenants have not paid the January 2011 or February 2011 rent and currently owe \$3390.00 in unpaid rent. The landlord stated that there has been no communication from the tenant and the landlord believes the tenants still occupy the rental unit.

As the tenants still occupy the rental unit and have made no efforts to pay the rent that is due, the landlord has requested an order of possession effective 2 days after service on the tenants.

### Analysis

Based on the documentary evidence and testimony I find that the tenant was properly served with a notice to end tenancy for non-payment of rent. The tenant did not pay the outstanding rent within 5 days of receiving the notice and did not apply for dispute resolution to dispute the notice and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice. Based on the above facts I find that the landlord is entitled to an order of possession.

I find that the landlord has established a claim for \$3390.00 in unpaid rent.

The landlord is entitled to recovery of the \$50.00 filing fee.

### Conclusion

I hereby grant the Landlord an **Order of Possession**, effective **2 days** after service of the Order upon the Tenants. This Order must be served on the Tenants and may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

I find that the landlord has established a monetary claim for \$3390.00 in unpaid rent. The landlord is also entitled to recovery of the \$50.00 filing fee. I order the landlord pursuant to s. 38(4) of the Act to keep the tenant's \$847.50 security deposit in partial satisfaction of the claim and I grant the landlord a monetary order under section 67 for the balance due of **\$2592.50** ( $\$3390.00 + \$50.00 = \$3440.00 - \$847.50 = \$2592.50$ )

A monetary order in the amount of **\$2592.50** 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: February 2, 2011

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Residential Tenancy Branch