

## **DECISION**

### **Dispute Codes:**

OPR; MNR; MNDC; FF

### **Introduction**

This is the Landlord's application for an Order of Possession; a Monetary Order for unpaid rent, unpaid parking fees, late fees and loss of revenue; and to recover the cost of the filing fee from the Tenants.

The Landlord's agent gave affirmed testimony at the Hearing.

The Landlord's agent testified that the Notice of Hearing documents and copies of the Landlord's documentary evidence were mailed to each of the Tenants, via registered mail, to the rental unit on April 20, 2011. The Landlord provided a copy of both of the registered mail receipts and tracking numbers in evidence.

Based on the affirmed testimony of the Landlord's agent and the documentary evidence provided by the Landlord, I am satisfied that the Tenants were duly served with the Notice of Hearing documents by registered mail. Service in this manner is deemed to be effected 5 days after mailing the documents. Despite being served with the Notice of Hearing documents, the Tenants did not sign into the teleconference and the Hearing proceeded in their absence.

### **Issues to be Decided**

- Is the Landlord entitled to an Order of Possession?
- Is the Landlord entitled to the Monetary Order sought according to the provisions of Section 67 of the Act?

### **Background and Evidence**

The Landlord's agent gave the following testimony and evidence:

Monthly rent is \$686.00 per month, due the first day of each month. There is a parking fee of \$10.00 per month which is also due on the first day of each month. The Tenants did not pay rent or parking for the month of April, 2010. In addition, the Tenants were in arrears prior to April 1, 2010, in the amount of \$27.00. The Landlord provided a copy of the Tenants' ledger in evidence.

On April 2, 2011, at 2:10 p.m., the Landlord's agent served the Tenants with a 10 Day Notice to End Tenancy for Unpaid Rent, by posting the Notice on the Tenants' door at the rental unit with a witness present. The Landlord provided a "Proof of Service" document for the Notice to End Tenancy.

The Landlord' agent testified that the Tenants remain in the rental unit and have not paid the outstanding rent, parking fees or late fee for the month of April, 2011. The Landlord's agent requested a monetary order for unpaid rent, parking fees, late fees and loss of revenue, as follows:

Amount outstanding as at March 31, 2011	\$27.00
Unpaid rent for April, 2011	\$686.00
Unpaid parking for April, 2011	\$10.00
Late fees for April, 2011	\$20.00
Loss of income for May (rent and parking fees)	\$696.00
Late fees for May, 2011	<u>\$20.00</u>
TOTAL AMOUNT CLAIMED	\$1,459.00

### **Analysis**

I accept that the Landlord's agent served the Tenants with the Notice to End Tenancy

by posting the Notice on the Tenants' door on April 2, 2011. Pursuant to the provisions of Section 90 of the Act, service in this manner is deemed to be effected three days after posting the documents. The Tenants did not pay all of the arrears, or file for dispute resolution, within 5 days of receiving the documents. Therefore, pursuant to the provisions of Section 46(5) of the Act, the Tenants are conclusively presumed to have accepted that the tenancy ended on April 15, 2011. The Landlord is entitled to an Order of Possession and I make that Order, **effective 2 days after service of the Order upon the Tenants.**

The tenancy agreement, a copy of which was provided in evidence, includes a provision for late fees in the amount of \$20.00. The Landlord has established its claim for late fees for the month of April, 2011. These fees are for late payment of **rent**. The tenancy ended on April 15, 2011. The loss of revenue for the month of May, 2011, is not rent. Therefore, I dismiss the Landlord's claim for late fees for the month of May, 2011. The Landlord provided a copy of the parking agreement in evidence. I allow the Landlord's claim with respect to unpaid parking fees for April and loss of revenue with respect to parking fees for the month of May, 2011.

The Landlord has been successful in its application and is entitled to recover the cost of the \$50.00 filing fee from the Tenants.

The Landlord has established a monetary claim as follows:

Unpaid rent, late fees, parking fees	\$743.00
Recovery of the filing fee	\$50.00
<b>TOTAL AMOUNT DUE TO THE LANDLORD</b>	<b>\$1,489.00</b>

I note that the Landlord is holding the security deposit paid on March 8, 2003, in the amount of \$305.00. The security deposit, together with accrued interest, remains available on application by either party and must be administered in accordance with the provisions of the Act.

**Conclusion**

I hereby provide 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 hereby provide the Landlord a Monetary Order in the amount of **\$1,489.00** for service upon the Tenants. This Order may be filed in the Provincial Court of British Columbia (Small Claims) 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: May 16, 2011.

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Residential Tenancy Branch