

## **DECISION**

Dispute Codes      OPR, MNR, FF

### Introduction

This is an application filed by the Landlord for an order of possession resulting from a 10 day notice to end tenancy for unpaid rent, a monetary order request for unpaid rent and recovery of the filing fee.

The Landlord attended the hearing by conference call and gave undisputed testimony. The Tenant did not attend.

### Issue(s) to be Decided

Is the Landlord entitled to an order of possession?

Is the Landlord entitled to a monetary order?

### Background and Evidence

This Tenancy began on April 1, 2011 on a 1 month fixed term tenancy and then thereafter on a month to month basis. The monthly rent is \$775.00 payable on the 1<sup>st</sup> of each month and a security deposit of \$387.50 was paid and is currently being held in trust by the Landlord.

The Landlord states that the notice of hearing documents were sent by registered mail on August 17, 2011. The Landlord states that the package was returned from Canada Post as "unclaimed". The Landlord has provided in her direct testimony the registered mail tracking number from Canada Post as, "79567986558".

The Landlord states that in her evidence that the 10 day notice for unpaid rent dated August 4, 2011 was served by posting on the rental unit door on August 5, 2011, which was performed by her co-worker, B.S. The notice indicates rent arrears totalling, \$2,499.63. The Landlord states that this consists of rent arrears of \$147.50 for May 2011, \$775.00 for June 2011, \$775.00 for July 2011 and \$775.00 for August 2011. The Landlord is also seeking a \$25.00 late rent fee for August, which she states is subject to clause (3) (c) from the Residential Tenancy Agreement and initialled by the Tenant as accepting this penalty.

### Analysis

Based upon the undisputed testimony and the evidence submitted by the Landlord, I am satisfied that the Tenant was properly served with the notice of hearing documents by registered mail. The mail was unclaimed by the Tenant from Canada Post. I am also satisfied based upon the undisputed testimony of the Landlord that the Tenant was properly served with the 10 day notice to end tenancy for unpaid rent. The Tenant is conclusively presumed to accept that the Tenancy is at an end on the effective date of the notice. The Tenant has neither paid the rent nor filed for dispute resolution within the allowed timeframe. The Landlord is granted an order of possession. The Tenant must be served with the order of possession. Should the Tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

As for the monetary order request, I find that the Landlord has established a claim of \$2,472.50 in unpaid rent, \$25.00 for an August late rent fee, totalling \$2,497.50. The Landlord is also entitled to recovery of the \$50.00 filing fee. I order that the Landlord retain the \$387.50 security deposit in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of \$2,160.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

### Conclusion

The Landlord is granted an order of possession and a monetary order for \$2,160.00. The Landlord may retain the security deposit.

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: September 16, 2011.

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Residential Tenancy Branch