

## **DECISION**

Dispute Codes      OPR, MNR, MNDC, MNSD, FF

### Introduction

This is an application filed by the Landlord for an order of possession and a monetary order for unpaid rent and loss of rental income, to keep all or part of the pet damage and security deposits and recovery of the filing fee.

The Landlord has attended the hearing by conference call and has given undisputed testimony. The Tenant has not attended or submitted any documentary evidence. The Landlord states that the Tenant was served with the notice of hearing and evidence package by Canada Post Registered Mail on June 1, 2012 and has also submitted the Customer Receipt as proof of service. The Landlord states that a check of the Canada Post on-line tracking shows that the Tenant received the package on June 5, 2012. As such, I find that both parties have been properly served with the notice of hearing and evidence package submitted and as deemed under the Act.

### Issue(s) to be Decided

Is the Landlord entitled to an order of possession?

Is the Landlord entitled to a monetary order?

Is the Landlord entitled to retain the pet damage and security deposits?

### Background, Evidence and Analysis

This Tenancy began on December 13, 2011 on a fixed term tenancy until June 30, 2012 as shown by the submitted copy of the signed tenancy agreement. The monthly rent is \$850.00 payable on the 1<sup>st</sup> of each month. A pet damage deposit of \$425.00 and a security deposit of \$425.00 were paid.

The Landlord states that a 10 day notice to end tenancy for unpaid rent dated May 11, 2012 was served by posting the notice on the door of the rental unit on May 11, 2012. The Landlord has also submitted a proof of service document that shows that the notice was served with a witness. The stated effective date of the notice is May 21, 2012. The notice displays that rent in the amount of \$800.00 was due on May 1, 2012 and was outstanding. The Landlord stated in direct testimony that the \$800.00 noted was a clerical mistake and that the monthly rent due is \$850.00 as shown in the signed tenancy agreement. The Landlord further states that a money order for \$850.00 was

received and held from the Tenant on May 28, 2012 and that it has not been processed as the Landlord did not wish to reinstate the tenancy. No rent for June 2012 has been received.

The Landlord seeks an order of possession and a monetary order for loss of rental income for June 2012 of \$850.00. The Landlord wishes to offset this with the currently held \$425.00 pet damage and \$425.00 security deposit.

I accept the Landlord's undisputed testimony and find that the Tenant was served with a notice to end tenancy for unpaid 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 upon all of the evidence submitted, I find that the Landlord is entitled to an order of possession. The Tenant must be served with 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, I find that the Landlord has established a claim for loss of rental income of \$850.00 for June of 2012. The Tenant still occupies the rental unit and has not paid any further rent. The Landlord is also entitled to recovery of the \$50.00 filing fee. I order that the Landlord retain the \$425.00 pet damage deposit and \$425.00 security deposit in partial satisfaction of this claim. I grant the Landlord an order under section 67 for the balance due of \$50.00. 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 \$50.00. The Landlord may retain the pet damage and security deposits.

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: June 22, 2012.

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Residential Tenancy Branch