



# Dispute Resolution Services

Residential Tenancy Branch  
Ministry of Housing and Social Development

## Decision

### Dispute Codes:

OPR, MNR, MNSD, FF

### Introduction

This hearing was initiated by way of a Direct Request Proceeding but was reconvened as a participatory hearing as the Dispute Resolution Officer at the Direct Request Proceeding was not satisfied that the Ten Day Notice to End Tenancy was properly served on the Tenant.

The reconvened hearing was held to address 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. At the reconvened hearing, the Agent for the Landlord withdrew the application for an Order of Possession, as the rental unit has been vacated.

The Agent for the Landlord stated that copies of the Application for Dispute Resolution and Notice of Hearing were sent to the Tenant via registered mail at the address noted on the Application, on February 21, 2009. A tracking number was provided. The Canada Post website shows the mail was not picked up by the Tenant. These documents are deemed to have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*, however the Tenant did not appear at the hearing.

### Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to a monetary Order for unpaid rent; to keep all or part of the security deposit; and to recover the filing fee from the Tenant for the cost of the Application for Dispute Resolution, pursuant to sections 38, 67, and 72 of the *Act*.

### Background and Evidence

The Landlord submitted a tenancy agreement that shows that this tenancy began on October 01, 2008; that the Tenant is required to pay monthly rent of \$800.00; that the Tenant is required to pay her own hydro costs; and that the Tenant paid a security deposit of \$400.00 and a hydro deposit of \$100.00 on October 01, 2008.

The Agent for the Landlord stated that on February 02, 2009, she personally served the Tenant with a ten (10) day Notice to End Tenancy for non-payment of rent, which had an effective date of February 17, 2009. The Notice indicated that the Tenant is presumed to have accepted that the tenancy is ending and that the Tenant must move out of the rental by the date set out in the Notice unless the Tenant pays the outstanding rent or files an Application for Dispute Resolution within five days of the date they are deemed to have received the Notice.

The Agent for the Landlord stated that the Tenant vacated the rental unit, sometime between February 19, 2009 and February 28, 2009.

The Agent for the Landlord stated that the Tenant still owes \$150.00 in rent from January of 2009 and \$800.00 in rent from February of 2009.

The Agent for the Landlord stated that the Tenant has an outstanding hydro bill, in the amount of \$56.85.

### Analysis

In the absence of evidence to the contrary, I find that the Tenant was served with a Notice to End Tenancy that required the Tenant to vacate the rental unit on February 17, 2009, pursuant to section 46 of the *Act*. In the absence of evidence to the contrary, I find that the Tenant did vacate the rental unit prior to February 28, 2009.

In the absence of evidence to the contrary, I find that the Tenant has not paid rent in the amount of \$150.00 for January of 2009, and that the Landlord is entitled to compensation in that amount.

In the absence of evidence to the contrary, I find that the Tenant has not paid rent in the amount of \$800.00 for February of 2009, and that the Landlord is entitled to compensation in that amount.

In the absence of evidence to the contrary, I find that the Tenant has not paid utilities in the amount of \$56.85, and that the Landlord is entitled to compensation in that amount.

I find that the Landlord's application has merit, and I find that the Landlord is entitled to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

I find that the Landlord is entitled to retain the Tenant's security deposit plus interest, in the amount of \$501.89, in partial satisfaction of the monetary claim.

### Conclusion

I find that the Landlord has established a monetary claim, in the amount of \$1,056.85, which is comprised on \$950.00 in unpaid rent, \$56.85 in unpaid utilities, 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 plus interest, in the amount of \$501.59, in partial satisfaction of the monetary claim.

Based on these determinations I grant the Landlord a monetary Order for the balance of \$555.26. 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.

Date of Decision: March 9, 2009.

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