



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards  
Ministry of Housing and Social Development

## **DECISION AND REASONS**

### Dispute Codes

OPR, MNR, MNSD, & FF

### Introduction

This hearing dealt with an application by the landlord seeking an Order of Possession and a monetary Order due to non-payment of rent by the tenant. Although the tenant was served with notice of this hearing by registered mail on May 20, 2009, he did not appear for the hearing. Pursuant to section 90(a) of the *Act* I deem the tenant as having been served in accordance with section 89 of the *Act*. I proceeded with the hearing in the tenant's absence.

### Issues to be Determined

Is the landlord entitled to an Order of Possession due to non-payment of rent by the tenant? Has the landlord established a monetary claim due to non-payment of rent by the tenant?

### Background and Evidence

Based on the evidence from the landlord I accept that this tenancy began on October 1, 2008 for the monthly rent of \$1,350.00 and a security deposit of \$675.00 which was paid on October 2, 2008. The tenancy was for a fixed term ending effective September 30, 2009 and the rent is due on the 1<sup>st</sup> of the month.

The tenant was served with a 10 day Notice to End Tenancy due to non-payment of rent on May 5, 2009 when it was put under the door of the rental unit. The Notice states that the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant did not apply to dispute the Notice to End Tenancy within five days. I accept that the tenant has been served with notice to end tenancy as declared by the landlord.

The landlord seeks a monetary claim due to the tenant's failure to pay rent for the months of April, May and June 2009 for the sum of \$4,100.00. The landlord also seeks to retain the tenant's security deposit plus interest in partial satisfaction of this claim.

### Analysis and Findings

Based on the foregoing, I find that the tenant is conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice. I grant the landlord an Order of Possession effective **two (2) days** after it is served upon the tenant. This Order may be filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

I find that the landlord has established a total monetary claim for the sum of **\$4,150.00** comprised of \$4,100.00 outstanding rent plus the recovery of the \$50.00 filing fee paid for this application. I order that the landlord may retain the deposit and interest held of **\$677.52** in partial satisfaction of the claim and grant an order for the balance due of **\$3,472.48**. This order must be served on the Respondent and may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

### Conclusion

The landlord's application has been granted. The tenant breached the tenancy agreement by failing to pay rent and as a result the landlord has been issued an Order of Possession and a monetary Order.

Dated June 25, 2009.

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Dispute Resolution Officer