

## **Dispute Codes:**

OPR, MNR, MNDC, FF

## **Introduction**

This is the Landlord's application for an Order of Possession for Unpaid Rent; a monetary order for unpaid rent and loss of rent; and to recover the cost of the filing fee from the Tenant.

I reviewed the evidence provided prior to the Hearing. The Landlord gave affirmed testimony and the Hearing proceeded on its merits.

## **Issues to be Decided**

- Is the Landlord entitled to an Order of Possession?
- Is the Landlord entitled to a monetary order, and if so, in what amount?

## **Background and Evidence**

The Landlord testified that he served the Tenant with the Notice to End Tenancy for Unpaid Rent at 9:45 a.m. on September 2, 2009, by personally handing the Notice to the Tenant at the Tenant's residence. A copy of the Notice to End Tenancy was entered in evidence.

The Landlord testified that he mailed the Tenant the Notice of Hearing documents, by registered mail, to the Tenant's residence on September 12, 2009. The Landlord provided a copy of the registered mail receipt and tracking number, along with a copy of the envelope addressed to the Tenant.

The Landlord testified that monthly rent is \$550.00, due on the 1<sup>st</sup> day of each month. The Landlord stated that the Tenant remains in the rental unit and has paid no rent for the months of September and October, 2009. A copy of the tenancy agreement was entered in evidence.

The Landlord testified that he did not require a security deposit be paid by the Tenant.

### **Analysis**

I accept the Landlord's testimony and evidence with respect to service of the Notice to End Tenancy and the Notice of Hearing documents. Pursuant to Section 90 of the Act, service of the Notice of Hearing documents is deemed to be effected 5 days after mailing the documents by registered mail. Therefore, the Tenant is deemed to have been served with the Notice of Hearing documents on September 17, 2009. Despite being served with the Notice of Hearing documents, the Tenant did not sign into the conference and the Hearing proceeded in his absence.

The 10 Day Notice to End Tenancy was served on September 2, 2009, pursuant to Section 88(a) of the Act, by personal service. The Tenant did not pay the rental arrears, or file an application to cancel the Notice to End Tenancy, within 5 days of being served with the Notice. Therefore, pursuant to Section 46(5) of the Act, the Tenant is conclusively presumed to have accepted that the tenancy ended on September 12, 2009. The Landlord is entitled to an Order of Possession and I make that order.

Based on the undisputed evidence and testimony of the Landlord, I find that the Tenant is in arrears of rent for the month of September, 2009, in the amount of \$550.00. I further find that the Landlord is entitled to loss of rent for the month of October, 2009, in the amount of \$550.00.

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

The Landlord has established a monetary order, as follows:

|   |                   |
|---|-------------------|
| Unpaid rent for September, 2009         | \$550.00          |
| Loss of rent for October, 2009          | \$550.00          |
| Recovery of the filing fee              | \$50.00           |
| <b>TOTAL AMOUNT DUE TO THE LANDLORD</b> | <b>\$1,150.00</b> |

**Conclusion**

I hereby grant the Landlord an Order of Possession **effective 2 days after service of the Order upon the Tenant**. This Order must be served on the Tenant and may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

I hereby grant the Landlord a Monetary Order against the Tenant in the amount of \$1,150.00. This Order must be served on the Tenant and 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: October 27, 2009.

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