



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

### **Dispute Codes:**

OPR; MNR; FF

### **Introduction**

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

The Landlord's agent gave affirmed testimony at the Hearing.

### **Preliminary Matters**

At the outset of the Hearing, the Landlord's agent testified that he provided a copy of the Landlord's evidence to the Tenant, by posting it to the Tenants door, and by mailing the documents, by registered mail, on August 27, 2010. The Landlord's agent testified that he provided a copy of the Landlord's evidence to the Residential Tenancy branch by fax, sent on August 27, 2010.

I could not find a copy of the Landlord's evidence on the file. The Landlord's agent testified that he had the fax confirmation sheet indicating that the documents were received by the Residential Tenancy Branch on August 27, 2010. I accepted that the documents might have been misplaced or misfiled, and allowed the Landlord's agent to re-fax the Landlord's evidence, together with the fax confirmation sheet.

The Landlord's agent faxed the documents to me. The fax confirmation sheet shows that 21 pages were received by the Residential Tenancy Branch at 10:49 a.m. on August 27, 2010 and I accept that the Landlord's evidence package was received by the Branch on August 27, 2010.

The Landlord's agent testified that he mailed the Notice of Hearing documents, by registered mail, to the Tenant at the rental unit on August 20, 2010. The Landlord provided a copy of the registered mail receipt and tracking number in evidence. Based on the verbal testimony and documentary evidence provided, I am satisfied that the Landlord served the Tenant with the Notice of Hearing documents and its evidence package in accordance with the Act. Despite being served, the Tenant did not sign into the teleconference, and the Hearing continued in her absence.

The Landlord's agent testified that the Tenant moved out of the rental unit at the end of August, 2010, without returning the keys and without providing a forwarding address. The Tenant has moved out of the rental unit and therefore the Landlord's application for an Order of Possession is dismissed.

### **Issues to be Decided**

- Is the Landlord entitled to a Monetary Order for unpaid rent?

### **Background and Evidence**

The Landlord's agent gave the following testimony and evidence:

Monthly rent was \$1,040.00 per month, due the first day of each month. The Tenant paid a security deposit in the amount of \$520.00 on December 31, 2009. The Tenant did not pay any rent for the month of August 2010.

The Landlord's agent asked to apply the security deposit towards partial satisfaction of the Landlord's monetary award.

### **Analysis**

Based on the undisputed testimony and documentary evidence of the Landlord, the Landlord's agent has established a monetary claim for unpaid rent in the total amount of \$1,040.00.

Pursuant to Section 72(2)(b) of the Act, the Landlord may apply the security deposit towards partial satisfaction of the Landlord's monetary claim. No interest has accrued on the security deposit.

The Landlord has been successful in its application and is entitled to recover the cost of the \$50.00 filing fee from the Tenant.

The Landlord has established a monetary claim as follows:

Unpaid rent for the month of August, 2010	\$1,040.00
Recovery of the filing fee	\$50.00
Subtotal	\$1,090.00
Less security deposit	- \$420.00
TOTAL AMOUNT DUE TO THE LANDLORD AFTER SET-OFF	\$670.00

### **Conclusion**

The Landlord's application for an Order of Possession is dismissed.

I hereby grant the Landlord a Monetary Order in the amount of \$670.00 against the Tenant. 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 08, 2010.

---