



Dispute Resolution Services

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

Dispute Codes: OPR MNR MNSD FF

Decision and Reasons

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim.

The tenancy began on March 15, 2008. Rent in the amount of \$1000 is payable in advance on the first day of each month. On March 4, 2008, the landlord collected a security deposit from the tenants in the amount of \$500. The landlord's evidence was that the tenants failed to pay rent in the month of August 2008 and on August 2, 2008 the landlord served the tenant with a notice to end tenancy for non-payment of rent. The tenants further failed to pay rent in the month of September 2008. The tenants' evidence was that they were served with the notice to end tenancy on July 31, 2008, one day before August's rent was due; further, the tenants submitted that the effective date on the notice is August 7, 2008 and therefore the notice is not a valid 10 day notice. The tenants acknowledge that they did not pay rent for August or September 2008, and they did not file for dispute resolution to dispute the notice.

In considering all of the evidence, I find that I prefer the evidence of the landlord as more credible than that of the tenants. I find that the tenants were served with a notice to end tenancy for non-payment of rent on August 2, 2008. In regard to the effective date on the notice, section 53 of the Act states that incorrect effective dates are automatically changed to the correct date, and therefore the incorrect effective date on the notice in this case does not render the notice invalid. The tenants have not paid the outstanding rent and have not applied for dispute resolution to dispute the notice and are therefore conclusively presumed to have accepted that the tenancy ended on the corrected effective date of the notice. Based on the above facts I find that the landlord

is entitled to an order of possession. The tenant must be served with the 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 \$985 in unpaid rent for August 2008, \$25 for a late payment fee as per the tenancy agreement, and \$1000 in lost revenue for September 2008. The landlord is also entitled to recovery of the \$50 filing fee. I order that the landlord retain the deposit and interest of \$503.89 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$1556.11. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated September 9, 2008.