



Dispute Resolution Services

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

Decision

Dispute Codes: OPR, MNR, MNSD, FF

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. Despite having been served with the application for dispute resolution and notice of hearing by registered mail on August 18, the tenant did not participate in the conference call hearing.

The tenancy began on July 17, 2006. Rent in the amount of \$936.70 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$425.00. The tenant paid rent for July with a cheque which was returned for insufficient funds and on July 8 the landlord served the tenant with a notice to end tenancy by posting the decision on the tenant's door. The tenant further failed to pay rent in the months of August and September.

At the hearing the landlord asked to amend her claim to include loss of income for September. I have allowed the amendment as I find that the tenant should reasonably have known that the landlord could not re-rent the rental unit while the tenant was still residing therein and would therefore lose income.

Based on the landlord's undisputed testimony, I find that the tenant was served with a notice to end tenancy for non-payment of rent. The tenant did not pay the outstanding rent within 5 days of receiving the notice and did not apply for dispute resolution to dispute the notice and is therefore conclusively presumed to have accepted that the tenancy ended on the 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 \$2,810.10 in unpaid rent and loss of income. The landlord is further entitled to \$75.00 in NSF fees for the returned cheques in May, June and July pursuant to the terms of the tenancy agreement. The landlord is also entitled to recovery of the \$50.00 filing fee for a total entitlement of \$2,935.10. I order that the landlord retain the deposit and interest of \$436.86 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$2,498.24. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated September 10, 2008.