



# 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.

On May 29, 2006, the landlord collected a security deposit from the tenant in the amount of \$375.00. The tenancy began on June 1, 2006. Rent in the amount of \$839.00 is payable in advance on the first day of each month. The tenant failed to pay rent in the month of September, 2008 and on September 2 the landlord served the tenant with a notice to end tenancy for non-payment of rent. The tenant further failed to pay rent in the month of October.

I find that the tenant was served with a notice to end tenancy for non-payment of rent. The tenant has not paid the outstanding rent and has not applied 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.

The landlord is seeking to recover from the tenant outstanding rent for September for the amount of \$839.00. The tenant is currently still living in the rental unit. The landlord is therefore seeking to include a claim for loss of income for October for the amount of \$839.00. I find that the tenant should reasonably have known that the landlord could not re-rent the unit while she was still in residence and I allow the claim for a further \$839.00.

In addition, the landlord is seeking to recover from the tenant \$25.00 late payment charges and \$25.00 bank charges related to the return of the September rent check due

to non-sufficient fund. I note that clause 7 of the tenancy agreement does provide for the applicability of \$20.00 late payment charges but the same agreement makes no provision for the applicability of bank charges. Based on the above, I allow the landlord's claim for late payment charges in the amount of \$20.00.

I find that the landlord has established a claim for \$1698.00 comprised of \$839.00 in unpaid rent, \$839.00 in loss of income and \$20.00 in late payment charges. The landlord is also entitled to recovery of the \$50.00 filing fee. I order that the landlord retain the security deposit and interest of \$386.31 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$1361.69. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated October 17, 2008.

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