



# Dispute Resolution Services

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

## Decision

**Dispute Codes:** ET MNR OPR FF

This hearing dealt with an application by the landlord for an order of possession and a monetary order. Despite having been served with the application for dispute resolution and notice of hearing by registered mail on November 27, the tenants did not participate in the conference call hearing.

During the hearing, the landlord withdrew his application to end tenancy early.

On August 21, 2008, the landlord collected a security deposit from the tenants in the amount of \$900.00. The tenancy began on September 1. Rent in the amount of \$1800.00 is payable in advance on the first day of each month. The tenants failed to pay rent in the month of November and on November 10, the landlord served the tenants with a notice to end tenancy for non-payment of rent.

During the hearing, the landlord said that he had mistakenly put "October" instead of "November" on the Notice to End Tenancy. However, the tenants understood that the notice should have read "November". In fact, on November 15, the tenants gave the landlord a rent check for the November rent but on November 19, the tenants put a stop payment on this check. The tenants further failed to pay rent in the month of December.

On December 14, 2008, the tenant moved out of the rental unit. However, he left behind some possessions including a vehicle.

Based on the landlord's testimony, I find that the tenants were served with a notice to end tenancy for non-payment of rent. The tenant have not paid the

outstanding rent and have 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 tenants must be served with the order of possession. Should the tenants 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 tenants outstanding rent for the month of November in the amount of \$1800.00. The tenants were still living in the rental unit in December. The landlord is therefore seeking to include a claim for loss of income for the month of December in the amount of \$1800.00. I find that the tenants should reasonably have known that the landlord could not re-rent the unit while they were still in residence and I allow the claim for a further \$1800.00.

The landlord is also seeking to include a claim for loss of income for the month of January in the amount of \$1800.00. He explained that since the tenants moved out, he had cleaned the rental unit and shampooed the carpet. However, he still needs to hire a professional company to clear out the smell of smoke in the rental unit as the tenants smoked inside the unit contrary to their tenancy agreement. The landlord added that he was eager to re-rent the unit. He has already listed his unit for rent with a real estate company and he intends to put an ad in the newspaper once he resolves the issue with the smoke. Based on the above, I allow the claim for a further \$900.00.

The landlord said that when the tenants moved in on September 1, the electricity account was changed into the tenants' name. On December 8, he read the electricity meter and gave his reading to the City of ABC. Based on this reading, the City of ABC issued a billing indicating that there are outstanding electricity charges for the period from September 1 to December 8 for the amount of \$1062.12. To support his claim, the landlord submitted a copy of this bill. The

landlord said that if such charges remain unpaid, they will be added to his property tax billing. He is therefore seeking to include a claim for unpaid utilities in the amount of \$1062.12. Based on the above, I allow the claim for unpaid utilities in the amount of \$1062.12.

Based on all of the above, I find that the landlord has established a claim for \$1800.00 in unpaid rent, \$2700.00 in loss of income and \$1062.12 in unpaid utilities. The landlord is also entitled to recovery of the \$100.00 filing fee. I grant the landlord an order under section 67 for the balance due of \$5662.12. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated: January 7, 2009