

# Dispute Resolution Services

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

## **Decision**

**Dispute Codes:** MNDC MNR MNSD O OPR FF

## **Introduction**

This hearing dealt with an application by the landlord for an order of possession due to unpaid rent, a monetary order to recover rental arrears, and loss of revenue, and including recovery of the filing fee associated with this application, and an order to retain the security deposit in partial satisfaction of the monetary claims. The tenant was deemed served with the application for dispute resolution and notice of hearing by registered mail on November 19, 2008.

Both the landlord and the tenant participated in the hearing held today.

## **Issue(s) to be Decided**

Is the notice to end tenancy valid?

Is the landlord entitled to an order of possession?

Is the landlord entitled to the monetary amounts claimed?

## **Background and Evidence**

The tenancy began on December 1, 2006. Rent in the amount of \$785 is payable in advance on the first day of each month. At the outset of the tenancy, the landlord collected a security deposit from the tenant in the amount of \$387.50 on November 24, 2006. The tenant failed to pay the rent in the early portion of November 2008 and on

November 3, 2008 the landlord served the tenant with a 10 day notice to end tenancy for non-payment of rent. The tenant did make full financial restitution for the month of November, including the late penalty fee, on November 17, 2008. The tenant remains in the rental unit on today's date, but has not paid rent by today's date. The tenant desires to pay the full rent and penalty fee for December at the earliest opportunity in this same month. It is understood by the parties that the tenancy has not been reinstated. The landlord verbally requested in the hearing for an order of possession effective 3 days from day of service on the tenant.

### **Analysis**

Based on the tenant's and landlord's sworn testimony I find that the tenant was served with a notice to end tenancy for non-payment of rent and I find the notice to be valid. The tenant eventually paid the outstanding rent for November 2008 and remains in the rental unit to this date but has not paid rent for December 2008.

Based on the above facts I find that the landlord is entitled to an order of possession. The landlord agreed during the hearing to take into consideration the tenant's stated current situation in respect to exercising the order of possession.

As for the monetary order, I find that the landlord has not established a claim for unpaid rent for November 2008 and it is premature for the landlord to claim loss of revenue for the entire month of December 2008. At this time I find the landlord is entitled to recover loss of revenue for one half (1/2) month for December 2008 in the amount of \$392.50 with leave to reapply if necessary for the remainder. The landlord is also entitled to recovery of the \$50.00 filing fee for a total entitlement claim of **\$442.50**.

### **Conclusion**

I grant an order of possession to the landlord effective 3 days from the day of service on the tenant. The tenant must be served with this 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.

I order that the landlord retain the security deposit and interest of \$398.96 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of **\$43.54**. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated: December 3, 2008