



Dispute Resolution Services

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

Decision

Dispute Codes: MNDC MNR OPR FF

This hearing dealt with an application by the landlord for an order of possession and a monetary order.

The tenancy began on September 1, 2008. Rent in the amount of \$900.00 is payable in advance on the first day of each month. The tenant failed to pay rent in the months of November and December and on December 1, 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 January.

Based on the landlord's testimony, 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 tenant said that on November 10, he paid the landlord \$900.00 in cash for the November rent. But the landlord refused to give him a receipt. The landlord denied having received such an amount from the tenant. The tenant said that he did not pay his rent by check because he does not get his cancelled checks back from his bank. The tenant added that he withdrew a total of \$1100.00 cash from his bank on November 10. When asked why he has not submitted his bank



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statement for November as supporting evidence of his payment of \$900.00 to the landlord, the tenant replied: "Well, pretty hard to get around". Based on the above, I find, on the balance of probabilities that the tenant has failed to prove his payment of \$900.00 to the landlord as the November rent.

The tenant did not dispute that he did not pay the December and January rent.

The landlord is seeking to recover from the tenant outstanding rent for the months of November and December in the amount of \$1800.00. The tenant is currently still living in the rental unit. The landlord is therefore seeking to include a claim for loss of income for the month of January in the amount of \$900.00. I find that the tenant should reasonably have known that the landlord could not re-rent the unit while he was still in residence and I allow the claim for a further \$900.00.

Based on the above, I find that the landlord has established a claim for \$1800.00 in unpaid rent and \$900.00 in loss of income. The landlord is also entitled to recovery of the \$50.00 filing fee. I grant the landlord an order under section 67 for the balance due of \$2750.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated: January 07, 2009