



Dispute Resolution Services

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

Decision

Dispute Codes: MNDC MNR MNSD OPR 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 sliding the documents under the door on December 10, 2008, the tenant did not participate in the conference call hearing.

On April 28, 2008, the landlord collected a security deposit from the tenant in the amount of \$500.00. The tenancy began on the same day. Rent in the amount of \$1085.00 is payable in advance on the first day of each month. The tenant failed to pay rent in the months of October, 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 landlord is seeking to recover from the tenant outstanding rent of \$385.00 for October, \$1085.00 for November and \$1085.00 for December. The landlord said

that sometime after December 10, the tenant left the rental unit to travel. But the tenant's friends are currently still living in the rental unit and the tenant's possessions might also be 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 \$1085.00. I find that the tenant should reasonably have known that the landlord could not re-rent the unit while the tenant and his friends were still in residence and I allow the claim for a further \$1085.00.

As for the monetary order, I find that the landlord has established a claim for \$3640.00 in unpaid rent. 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 \$505.08 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$3184.92. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated: January 06, 2009
