



Dispute Resolution Services

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

DECISION AND REASONS

Dispute Codes: OPR, MNR, MNSD, & FF

Introduction:

This hearing dealt with an application by the landlord for an Order of Possession and a monetary claim related to non-payment of rent. Both parties appeared for the hearing and were provided the opportunity to be heard and respond to the evidence of the other party.

The landlord indicated that he received an Order of Possession on a previous file and that he was withdrawing this portion of the claim.

Issue to be Determined:

Has the landlord established a monetary claim due to non-payment of rent?

Background and Evidence:

This tenancy began on November 1, 2008 for the monthly rent of \$1,400.00 and a security deposit of \$700.00 which was fulfilled on December 31, 2008. The tenancy ended effective January 31, 2009 after the landlord received an Order of Possession for the rental unit on a previous application.

The landlord is seeking the outstanding rent owed for January 2009 for the sum of \$733.00 and loss of rental income for February 2009 for the sum of \$1,400.00. The landlord also seeks to retain the tenants' security deposit plus interest in partial satisfaction of this claim.

The tenant who appeared for the hearing stated that she paid her portion of the rent and stated that all the problems are between the landlord and the other tenant. The tenant offered that the landlord could retain the security deposit.

Analysis:

All tenants are responsible to fulfil their obligations under the tenancy agreement. This includes the full payment of rent which did not occur in the circumstances before me. I find that the tenants' breached the tenancy agreement and are responsible for the loss suffered by the landlord.

I am satisfied that the landlord has established a total monetary claim for the sum of \$1,483.00 comprised of the outstanding sum of \$733.00 for January 2009 and \$700.00 for half the month's loss for February 2009 plus the recovery of the \$50.00 filing fee paid by the landlord for this application. I do not grant the landlord's request for the full

loss for February 2009 as the landlord has a duty to mitigate his losses and can possibly re-rent the unit to recover some of his loss for February 2009.

From this sum I Order that the landlord may retain the tenants' security deposit plus interest of \$700.03 in partial satisfaction of this claim. I grant the landlord a monetary Order for the remaining sum owed of **\$782.97**. This Order may be filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

Conclusion:

I grant the landlord's application having determined that the tenants breached the tenancy agreement by failing to pay the rent owed.

Dated February 12, 2009.

Dispute Resolution Officer