



# Dispute Resolution Services

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

## Decision

Dispute Codes: CNR OPR MNR MNSD FF

## Introduction

This hearing dealt with an application by the tenant to cancel a notice to end tenancy, and 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. The tenant and both landlords participated in the teleconference hearing?

## Issue(s) to be Decided

Is the notice to end tenancy valid?

Is the landlord entitled to the monetary amounts claimed?

## Background and Evidence

The tenancy began on December 1, 2008. Rent in the amount of \$700 is payable in advance on the first day of each month. At the outset of the tenancy, the tenant paid the landlord a security deposit of \$350 and a pet deposit of \$350. The tenant failed to pay rent in the month of February 2009 and on February 3, 2009 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 March 2009. The landlord seeks an order of possession based on the notice to end tenancy and monetary compensation for unpaid rent and lost revenue for February and March 2009. The landlord also applied for \$360 in unpaid utilities and \$100 for lost wages for missing work to participate in the hearing.

The tenant acknowledged that he did not pay rent for February or March 2009. The tenant stated that he had cleared up the outstanding utilities with the City.

### Analysis

In regard to the notice to end tenancy, I find that as the tenant has not paid the outstanding rent he is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice. As the notice is valid, I find that the landlord is entitled to an order of possession.

As for the monetary order, I find that the landlord has established a claim for \$1400 in unpaid rent and lost revenue for February and March 2009. The amount of utilities owing may be different than the amount the landlord has claimed, and in fact may be paid in full. However, the tenant did not provide documentary evidence to support his claim regarding the utilities, and I therefore dismiss that portion of the landlord's claim with leave to reapply. I cannot under the Residential tenancy act make an award for costs related to the dispute resolution process except regarding the filing fee for the cost of an application. In this case the landlord is entitled to recovery of the \$50 filing fee, for a total claim of \$1450.

### Conclusion

The tenant's application is dismissed.

I grant the landlord an order of possession effective two days after service. 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.

I order that the landlord retain the deposit and interest of \$700.89 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$749.11. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated March 19, 2009.