

## **DECISION**

**Dispute Codes:** MNR, OPR, MNSD, 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 in person on February 19, 2009, the tenant did not participate in the conference call hearing.

On October 11, 2008, the landlord collected a \$450.00 security deposit and a \$200.00 pet damage deposit from the tenant. The tenancy began on the same day. 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 month of February and on February 3, the landlord served the tenant with a notice to end tenancy for non-payment of rent.

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 within the prescribed time frame 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 said that sometime after February 18, the tenant paid the outstanding rent for February and March. 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 April 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 she was still in residence and I allow the claim for a further \$900.00.

The landlord is also seeking to include a claim for \$25.00 as late fee for the tenant's late payment of rent in April. I note that clause 7 of the tenancy agreement states the applicability of such charges. Based on the above, I find that the landlord is entitled to recovery of \$25.00 as late payment charges.

As for the monetary order, I find that the landlord has established a claim for \$900.00 in loss of income and \$25.00 in late payment charges. The landlord is also entitled to recovery of the \$50.00 filing fee. I order that the landlord retain the security deposit, pet damage deposit and interest of \$652.18 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$322.82. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated April 14, 2009.