

DECISION

Dispute Codes: MNR, MNSD, OPR

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 registered mail on February 18, 2009, the tenant did not participate in the conference call hearing.

On May 1, 2008, the landlord collected a security deposit from the tenant in the amount of \$450.00. The tenancy began on June 1. Rent in the amount of \$1500.00 is payable in advance on the first day of each month. The tenant failed to pay rent in the month of February 2009 and on February 3, the landlord served the tenant with a notice to end tenancy for non-payment of rent by posting the notice on the tenant's door. The landlord acknowledged receipt of the outstanding February rent of \$304.00 from the tenant and submitted a rent receipt dated February 23 bearing the notation of "for use of occupancy only". The tenant further failed to pay rent in the months of March and April.

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 tenant is currently still living in the rental unit. The landlord is therefore seeking to include a claim for loss of income for the months of March and April in

the amount of \$3000.00. 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 \$3000.00.

Based on the above, I find that the landlord has established a claim for \$3000.00 in loss of income. 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 \$454.52 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$2595.48. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated April 07, 2009.