



Dispute Resolution Services

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

DECISION AND REASONS

This hearing dealt with an application by the landlord for an order of possession and a monetary order for unpaid rent. Both the landlord's agent and the tenant participated in the teleconference hearing.

The tenancy began on July 1, 2008. Rent in the amount of \$750 is payable in advance on the first day of each month. At the outset of the tenancy, the landlord collected a security deposit from the tenant in the amount of \$375.

The landlord's testimony was as follows. The tenant failed to pay rent in the months of February and March 2009 and on March 1, 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 months of April and May 2009. The landlord did not in their application indicate that they applied for lost revenue for May 2009.

The tenant's response was that he had made advance payments and was paid up in rent to the end of February 2009. The tenant had some receipts for payments he made, but did not submit them as evidence. The landlord was unable to supply receipts due to a break-in.

In regard to the order of possession, 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.

As for the monetary order, I find that the landlord has established a claim for unpaid rent and lost revenue for March and April 2009. Due to the landlord's extenuating circumstances and unavailability of documentary evidence, I dismiss with leave to reapply the portion of the landlord's application regarding rent for February 2009. The

landlord is also entitled to recovery of the \$50 filing fee, for a total of \$1550. I order that the landlord retain the deposit and interest of \$377.83 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$1122.17. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated May 5, 2009.