

DECISION

Dispute Codes: OPR, MNR, 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.

On February 24, 2009, the landlord collected a security deposit from the tenants in the amount of \$1100.00. The tenancy began on March 1, 2009. Rent in the amount of \$2200.00 is payable in advance on the first day of each month. The tenants failed to pay rent in the month of April and on April 27, the landlord served the tenants with a notice to end tenancy for non-payment of rent. The tenants further failed to pay rent in the months of May and June.

Based on the landlord's testimony, I find that the tenants were served with a notice to end tenancy for non-payment of rent. The tenants have not paid the outstanding rent and have not applied for dispute resolution to dispute the notice and are 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 tenants must be served with the order of possession. Should the tenants 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 is seeking to recover from the tenants outstanding rent of \$1575.00 for April and \$2200 for May. The tenants are currently still living in the rental unit. The landlord is therefore seeking to include a claim for loss of income for the month of June in the amount of \$2200.00. I find that the tenants should reasonably have known that the landlord could not re-rent the unit while they were still in residence and I allow the claim for a further \$2200.00.

The landlord is also seeking to recover late rent payment charge of \$25.00 for the month of May and she referred me to clause 10 of the tenancy agreement which states the applicability of such charges. Based on the above, I find that the landlord is entitled to such recovery and I allow a claim of \$25.00 as late payment charge.

As for the monetary order, I find that the landlord has established a total claim of \$6000.00 comprised of \$3775.00 in unpaid rent, \$2200.00 in loss of income and \$25.00 in late payment charge. 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 \$1100.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$4950.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated June 26, 2009.