

DECISION

Dispute Codes: OPR, MNR, FF

This hearing dealt with an application by the landlord for an order of possession and a monetary order. Despite having been served with the application for dispute resolution and notice of hearing by registered mail on March 26, 2009, the tenant did not participate in the conference call hearing.

The tenancy began on more than 19 years ago. Rent in the amount of \$456.88 is payable in advance on the first day of each month. The tenant failed to pay rent in the months of December, 2008 and January, 2009 and on January 26, 2009, the landlord served the tenant with a notice to end tenancy for non-payment of rent with an effective date of February 8, 2009.

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 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. During hearing, the landlord requested an order of possession with an effective date of June 30, 2009. Based on the above facts, I find that the landlord is entitled to an order of possession with the requested effective date. 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 is seeking to recover from the tenant outstanding rent of \$456.88 for each of the months of December, 2008, January, 2009 and February, 2009 for a total of \$1370.64. The tenant is currently still living in the rental unit. The landlord said that it is unlikely that the tenant will be able to move his mobile home from the site by the end of May. The landlord is therefore seeking to include a claim for loss of income of \$456.88 for each of the months of March,

April, May and June, 2009 for a total of \$1827.52. I find that the tenant should reasonably have known that the landlord could not re-rent the unit while he was still in residence. I also find that there is a reasonable possibility that the tenant will not be able to move his mobile home from the site by the end of May. I therefore allow the claim for a further \$1827.52.

As for the monetary order, I find that the landlord has established a claim for \$1370.64 in unpaid rent and \$1827.52 in loss of income. The landlord is also entitled to recovery of the \$50.00 filing fee. The landlord said that the tenant made the following partial payments towards the outstanding rent: \$550.00 on April 17, \$241.00 on April 29 and \$240.50 on May 12. I therefore grant the landlord an order under section 67 for the balance due of \$2216.66. This order may be filed in the Small Claims Court and enforced as an order of that Court.