

## **DECISION**

### **Dispute Codes**

CNR, MNSD, MNDC, OPR, MNR, FF

### **Introduction**

This hearing dealt with an application by the tenant for an order setting aside a notice to end this tenancy, and a cross-application by the landlord for an order of possession and a monetary order for unpaid rent and utilities and loss of revenue, inclusive of the filing fee for this application, as well as an order to retain the security deposit in satisfaction of the monetary claim. Both parties attended the conference call hearing and participated with their testimony and were given a full opportunity to present evidence and make submissions. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

The tenant testified he still resides in the rental unit.

### **Issue(s) to be Decided**

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order as claimed?

### **Background and Evidence**

This tenancy began September 01, 2009. At the outset of the tenancy the landlord collected a security deposit in the amount of \$650. The tenant is obligated to pay \$1,350.00 per month in rent plus utilities. The tenant failed to pay rent and utilities for May 2010 and on May 05, 2010 the landlord served the tenant with a 10 Day Notice to end tenancy for non-payment of rent and utilities. The tenant further failed to pay rent and utilities in the month of June 2010.

The landlord requests an Order of Possession.

The tenant concurred, as accurate that the rent and utilities have not been paid, and that he desires to vacate upon the landlord facilitating him obtaining all of his belongings in the rental unit.

The quantum of the landlord's monetary claim is for unpaid rent for May and June 2010 in the amount of \$2700, gas utility in the amount of \$262.10 and electrical utility in the

amount of \$ 294.98. The landlord requests loss of rent revenue for July 2010 in the amount of \$1350 as the landlord testified they cannot re-rent the unit for July due to the tenant's refusal to vacate and bringing on this application. The landlord's total claim is **\$4607.08**.

### **Analysis**

As the tenant has not paid the rent and has no proof that the rent has been paid, his application is **dismissed** without leave to reapply.

I accept the landlord's testimony and evidence and find that the tenant was obligated to pay \$1,350.00 per month in rent. I find that as of June 01, 2010, the date the landlord submitted their application for dispute resolution, the tenant was \$2700 in arrears. I find that on May 05, 2010 the tenant was duly served with a notice to end tenancy for unpaid rent. I find that the landlord has grounds to end the tenancy for unpaid rent and I grant the landlord 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.

I find that the landlord is entitled to recover \$2700 in unpaid rent for May and June 2010 and \$557.08 in unpaid utilities up to the end of June 2010. I grant the landlord one half month's rent for July 2010 in the amount of \$675, with leave to reapply should the landlord have *proof* as to why they could not rent the unit for July 15, 2010. I further find that the landlord is entitled to recover the \$50 filing fee paid to bring their application.

### **Conclusion**

The tenant's claim is **dismissed**.

The landlord is granted an **Order of Possession and a Monetary Order**.

**I grant** an Order of Possession to the landlord **effective 2 days from the day it is served on the tenant**. The tenant must be served with this 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.

**I order** that the landlord retain the deposit and interest of \$650 in partial satisfaction of the claim and I grant the landlord an order under Section 67 of the Act for the balance due of **\$3332.08**. If necessary, this order may be filed in the Small Claims Court and enforced as an order of that Court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.