

## **DECISION**

Dispute Codes      OPR, MNR, FF

### Introduction

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. Both parties participated in the conference call hearing. Both parties gave affirmed evidence.

### Issues to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order for unpaid rent and unpaid utilities?

### Background and Evidence

The tenancy began on or about December 1, 2010. Rent in the amount of \$1275.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$600.00. The tenant failed to pay rent in the month(s) of August 2011 and on August 6, 2011 the landlord served the tenant with a notice to end tenancy. The tenant further failed to pay rent in the month(s) of September 2011. The tenant paid the August rent one month late. The landlord is seeking one month's rent and the late payment of rent fee of \$40.00 X 2 months.

The tenant's testified to the following; that the cause of their late payments is due to the "government cutting them off from disability", they have now sorted out all the paper work in regards to their disability claim and that they have every intention of paying the rent.

### Analysis

I accept the landlord's testimony. I find that the tenant was served with a notice to end tenancy for non-payment of rent. The tenant did not pay the outstanding rent within 5 days of receiving the notice and did not apply 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 \$1275.00 in unpaid rent. Under the Act the landlord is entitled to a maximum of \$25.00 for late fees and I deem that it is appropriate in this case that the landlord be entitled to \$50.00 in late fees. The landlord is also entitled to recovery of the \$50.00 filing fee. I order that the landlord retain the \$600.00 deposit in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$775.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

### Conclusion

The landlord is granted an order of possession and a monetary order for \$775.00. The landlord may retain the security deposit.

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*.

Dated: September 19, 2011.

---

Residential Tenancy Branch