



Dispute Resolution Services

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

DECISION

Dispute Codes: OPR, MNR, MNSD, MND, 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. Despite having been served with the application for dispute resolution and notice of hearing by registered mail on September 12, 2008, the tenants did not participate in the conference call hearing.

On January 1, 2007, the landlord collected a security deposit from the tenants in the amount of \$312.50. The tenancy began on January 1, 2007. Rent in the amount of \$645.00 is payable in advance on the first day of each month. The tenants failed to pay rent in September and on September 2, 2008 the landlord served the tenants with a notice to end tenancy for non-payment of rent by posting the notice on the tenant's door. The tenants further failed to pay rent in the month of October.

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 for September in the amount of \$645.00. The tenants are presently still living at the dispute address and

they have not paid the monthly rent of \$645.00 for October. The landlord is therefore seeking to include a claim for loss of income for the amount of \$645.00. 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 \$645.00.

Based on the above, I find that the landlord has established a claim for \$645.00 in unpaid rent, \$645.00 in loss of income and \$50.00 filing fee for the application. I order that the landlord retain the deposit and interest of \$320.79 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$1019.21. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated October 09, 2008.