

## **DECISION**

**Dispute Codes:** OPR, MND, MNR, MNSD, FF, CNR, MNDC, OLC, ERP, RP, PSF

This hearing dealt with a cross applications by the parties. The landlords made an application for an order of possession and a monetary order and an order to retain the security deposit in partial satisfaction of the claim. The tenants made an application to cancel the notice to end tenancy; for a monetary order for compensation for damages or loss under the *Act* and the tenancy agreement; for the landlord to make repairs and emergency repairs, to provide services or facilities required by law, and to comply with *Act*, regulation and the tenancy agreement. Despite having been served with the application for dispute resolution and notice of hearing by registered mail on May 22, 2009, the tenants did not participate in the conference call hearing.

The tenants did not call into the conference call, I therefore dismiss their application.

At the outset of the hearing, the landlords withdrew their application for a monetary order for costs incurred in addressing the damages as the tenants have not yet moved out. I therefore dismiss the landlords' application in this regard with leave to re-apply.

On September 13, 2008, the landlords collected a security deposit from the tenants in the amount of \$1050.00. The tenancy began on September 13, 2008. Rent in the amount of \$2100.00 is payable in advance on the first day of each month. The tenants failed to pay rent in the month of April, 2009 and on April 23, the landlords served the tenants with a notice to end tenancy for non-payment of rent. The tenants further failed to pay rent in the month of May.

Based on the landlords' 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 their application for dispute resolution to dispute the notice is dismissed. Based on the above facts, I find that the landlords are 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 landlords are seeking to recover from the tenants outstanding rent for the month of April in the amount of \$2100.00. The tenants are currently still living in the rental unit. The landlords are therefore seeking to include a claim for loss of income for the month of May in the amount of \$2100.00. I find that the tenants should reasonably have known that the landlords could not re-rent the unit while they were still in residence and I allow the claim for a further \$2100.00.

The landlords are also seeking recovery of strata fines that were levied against the unit during the tenancy. In support of their claim, the landlords submitted documentations from the property management company for the building showing the tenants' infractions and the fines totaling to \$1169.00. Based on the above, I find that the landlords are entitled to such recovery and I allow a claim for \$1169.00.

As for the monetary order, I find that the landlords have established a total claim of \$5369.00 comprised of \$2100.00 in unpaid rent, \$2100.00 in loss of income and \$1169.00 in strata fines. The landlords are also entitled to recovery of the \$50.00 filing fee. I order that the landlord retain the security deposit and interest of \$1054.73 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$4364.27. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated June 03, 2009.