



# **Dispute Resolution Services**

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

## **DECISION**

**Dispute Codes:** OPR, MNR, MNSD and FF

### **Introduction**

This application was brought by the landlord seeking an Order of Possession pursuant to a Notice to End Tenancy for unpaid rent served November 27, 2008 and setting an end of tenancy date of December 7, 2008. The landlord also sought a Monetary Order for the unpaid rent, loss of rent and filing fee for this proceeding and authorization to retain the security deposit in set off.

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

This application requires a decision on whether the landlord is entitled to an Order of Possession and the effective date, and whether a Monetary Order is due, the amount, and if the filing fee should be included.

### **Background and Evidence**

This tenancy began June 1, 2008. Rent is currently \$600 per month and the landlord holds a security deposit of \$300 paid on June 4, 2008.

During the hearing, the landlord gave uncontested evidence that the tenant had not paid rent for November, December or January.

## **Analysis**

Section 46 of the *Act* which deals with notice to end tenancy for unpaid rent provides that a tenant may pay the overdue rent or make application for dispute resolution within five days of receiving the notice.

If the tenant does neither, they are presumed to have accepted that the tenancy ends on the date stated on the notice. In this matter, the tenant has not paid the rent and has not made application to dispute the notice.

Therefore, the landlord requested, and I find he is entitled to, an Order of Possession effective two days from service of it on the tenant.

I further find that the landlord is entitled to a Monetary Order for the unpaid rent. I briefly considered the tenant's request that the loss of rent portion of the award should apply only to the first half of the January rent as he believed he could move out by January 11, 2009. However, on reflection, I believe that it would be unreasonable to expect the landlord to advertise and interview prospective tenants in such a short time. Given that the landlord will, in all probability, lose the rent for the remainder of January as a result of the tenant not honouring the Notice to End Tenancy, I find that the landlord is entitled to rent/loss of rent for the full month.

I further find that the landlord is entitled to recover the filing fee for this proceeding and authorization to retain the security deposit in set off as follows:

November rent	\$ 600.00
December rent	600.00
January rent/loss of rent	600.00
Filing fee	<u>50.00</u>
Sub total	\$1,850.00
Less retained security deposit	- 300.00
Less interest (June 4, 2008 to date)	- <u>2.59</u>
<b>TOTAL</b>	<b>\$1,547.41</b>

## Conclusion

Thus, the landlord's copy of this decision is accompanied by an Order of Possession effective two days from service of it on the tenant and a Monetary Order for \$1,547.41 for service on the tenant.

The Order of Possession is enforceable through the Supreme Court of British Columbia and the Monetary Order is enforceable through the Provincial Court of British Columbia.

January 8, 2009

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Dispute Resolution Officer