



# Dispute Resolution Services

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

## Decision

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

### Introduction

This hearing dealt with an application from the landlord for an order of possession, a monetary order for unpaid rent, compensation loss of rental income, retention of the security deposit in partial satisfaction of the claim, and recovery of the filing fee for this application. The landlord's agent participated in the hearing and gave affirmed testimony. Despite being personally served with the application for dispute resolution and notice of hearing, the tenant did not appear.

### Issues to be Decided

- Whether the landlord is entitled to an order of possession
- Whether the landlord is entitled to a monetary order under the *Act*

### Background and Evidence

Pursuant to a written residential tenancy agreement, the month-to-month tenancy commenced on August 1, 2008. Rent in the amount of \$500.00 is payable in advance on the first day of each month. A security deposit of \$250.00 was paid by the tenant at the start of tenancy.

The tenant failed to pay the full amount of rent due for the month of November 2008, and the landlord served the tenant with a 10 day notice to end tenancy for unpaid rent. The tenant further failed to pay rent for the month of December. The landlord submitted into evidence a copy of the 10 day notice dated December 2, 2008 which was served in person on the tenant that same date. The tenant has not subsequently vacated the unit and neither has she paid rent for January 2009.

## **Analysis**

Based on the documentary evidence and undisputed testimony of the landlord's agent, I find the tenant was served with a 10 day notice to end tenancy. She did not pay the overdue rent within 5 days of receiving the notice and did not apply to dispute the notice. The tenant is therefore conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the notice which was December 12, 2008. I find the landlord is therefore entitled to an order of possession.

As for the monetary order, I find the landlord has established a claim for \$1,170.00. This is comprised of \$50.00 (overdue rent for November 2008), \$20.00 (fee for late payment of November's rent), \$500.00 (overdue rent for December 2008), \$50.00 (fee for late payment of December's rent), \$500.00 (overdue rent and compensation for loss of rental income combined for January 2009) and \$50.00 (fee for late payment of January's rent). The landlord is also entitled to recovery of the \$50.00 filing fee for this application (total claim: \$1,220.00). I order that the landlord retain the security deposit of \$250.00 plus interest of \$1.61, and I grant the landlord a monetary order under section 67 of the *Act* for the balance due of \$968.39 (\$1,220.00 - \$251.61).

## **Conclusion**

I hereby issue an order of possession in favour of the landlord effective not later than **two (2) days** after service upon the tenant. This order must be served on the tenant. 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 hereby grant the landlord a monetary order under section 67 of the *Act* for **\$968.39**. This order may be served on the tenant, filed in the Small Claims Court and enforced as an order of that Court.

DATE: January 13, 2009

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Dispute Resolution Officer