



# **Dispute Resolution Services**

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

## **DECISION**

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

### **Introduction**

This application was brought by the landlord seeking an Order of Possession pursuant to a 10-day Notice to End Tenancy for unpaid rent served December 4, 2008. The landlord also sought a Monetary Order for the unpaid rent, and filing fee for this proceeding.

### **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 September 1, 2007. Rent is \$725 per month and the landlord holds a security deposit of \$337.50 paid on August 11, 2006.

During the hearing, the landlord gave uncontested evidence that the Notice to End Tenancy had been served when the tenant had not paid the rent for December 2008. In the interim, the tenant did not vacate on the notice, remains in the rental unit and has not paid rent for 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 she is entitled to, an Order of Possession in support of the Notice to End Tenancy to take effect at 1 p.m. on January 14, 2009.

I further find that the landlord is entitled to a Monetary Order for the unpaid rent and filing fee for this proceeding.

While I initially considered that the tenant should be responsible for the loss of rent for the remainder of January, I cannot be certain that the landlord will be unable to have a new tenant move in for the latter half of January. Therefore, for that reason and as the landlord has chosen to reserve claim on the security deposit pending termination of the tenancy, I award rent for December and first half of January only. The landlord remains at liberty to file for loss of rent for the remainder of January at the conclusion of the tenancy if appropriate.

At present, I find that the tenant owes an amount to the landlord calculated as follows:

December 2008 rent	\$725.00
January 2009 one-half month rent	362.50
Filing fee	50.00
<b>TOTAL</b>	<b>\$1,137.50</b>

**Conclusion**

Thus, the landlord's copy of this decision is accompanied by an Order of Possession effective at 1 p.m. on January 14, 2009 and a Monetary Order for \$1,137.50.

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.

The landlord remains at liberty to make application for loss of rent for the balance of January 2009 if appropriate and for any damage to the rental unit as may be ascertained at the conclusion of the tenancy.

January 27, 2009

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Dispute Resolution Officer