



# **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 10-day Notice to End Tenancy for unpaid rent served December 23, 2008. The landlord also sought a Monetary Order for the unpaid rent and filing fee for this proceeding, and authorization to retain the security deposit in set off against the balance owed.

Despite being served with the Notice of Hearing by posting, the tenant did not call in to the number provided to enable her participation in the telephone conference call hearing. Therefore, it proceeded in her absence.

### **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 whether the landlord may retain the security deposit.

## **Background and Evidence**

This tenancy began November 1, 2007. Rent is \$930 per month plus \$35 for parking and the landlord holds a security deposit of \$450 paid on or about October 15, 2007.

During the hearing, the landlord gave evidence that the tenant had withheld \$165 of the rent for December 2008 and at the time of the hearing, she had paid no rent for January 2009. The tenant remained in the rental unit despite having received the Notice to End Tenancy.

The tenant had written the landlord a letter dated December 24, 2008 pertaining to a fall she had taken on the property and an interruption of the water service and requesting a rent rebate in compensation.

The landlord did not give consent.

## **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 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 and filing fee for this proceeding and authorization to retain the security deposit in set off against the balance owed as follows:

December 2008 rent arrears	\$ 165.00
January 2009 rent	965.00
Filing fee	<u>50.00</u>
Sub total	<u>\$1,180.00</u>
Less retained security deposit	- 450.00
Less interest (October 15, 2007 to date)	- 8.21
<b>TOTAL</b>	<b>\$721.79</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 \$721.79.

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 29, 2009

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Dispute Resolution Officer