



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## DECISION

### Dispute Codes:

**OP, OPB, MNR, MNDC, FF**

### Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has made application for an Order of possession, a monetary Order for unpaid rent and breach of an agreement and to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

The landlord provided affirmed testimony that copies of her October 28, 2009 Application for Dispute Resolution and Notice of Hearing were served to the tenant on October 30, 2009 by posting to the door of the rental unit. The landlord stated that she deleted the monetary claim as she was unable to properly serve the tenant for the purposes of monetary compensation.

The landlord testified that on November 28, 2009, she attended at the Residential Tenancy Branch in Burnaby and amended her application for dispute resolution to include an increased monetary order and that she submitted evidence of a Notice to End Tenancy for Unpaid Rent which was issued on November 17, 2009. The landlord's application for dispute resolution was marked as amended; however, the landlord did not alter the section of the application which describes how the Notice to End Tenancy was served to the tenant.

The landlord stated that after attending the Residential Tenancy Branch office she personally served the tenant with notice of this hearing at the rental unit at 11:45 a.m.

These documents are deemed to have been served in accordance with section 89 of the *Act*, however; the tenant did not appear at the hearing.

### Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent?

Is the landlord entitled to an Order of possession?

Is the landlord entitled to compensation for loss of rent revenue?

Is the landlord entitled to filing fee costs?

### Background and Evidence

The tenancy agreement requires the tenant to pay monthly rent of \$600.00 due on the first day of the month. The tenant paid a security deposit of \$212.50 in May 2009.

The landlord submitted a copy of a Notice to End Tenancy issued on October 2, 2009. This notice was issued on a 2004 form and gave two reasons for ending the tenancy.

The landlord stated that a ten (10) day Notice to End Tenancy for non-payment of rent, in the approved form, which had an effective date of November 27, 2009, was personally served by the landlord to the tenant at the rental unit address at 4:52 p.m. on November 17, 2009. The Notice to End Tenancy indicated that the Notice would be automatically cancelled if the landlord received \$875.00 within five days of service. The Notice also indicated that the tenant is presumed to have accepted that the tenancy is ending and that the tenant must move out of the rental by the date set out in the Notice unless the tenant file an Application for Dispute Resolution within five days.

The Landlord stated that the tenant owed \$165.00 for the balance of October rent and has not paid rent for November or December.

### Analysis

In the absence of evidence to the contrary, I find that the tenant was served with a Notice to End Tenancy that required the tenant to vacate the rental unit on November 27, 2009, pursuant to section 46 of the *Act*.

Section 46 of the *Act* stipulates that a tenant has five (5) days from the date of receiving the Notice to End Tenancy to either pay the outstanding rent or to file an Application for Dispute Resolution to dispute the Notice. In the circumstances before me I have no evidence that the tenant exercised either of these rights and, pursuant to section 46(5) of the *Act*, I find that the tenant accepted that the tenancy has ended. On this basis I will grant the Landlord an Order of Possession that is effective **two days after it is served upon the tenant.**

In the absence of evidence to the contrary, I find that the tenant has not paid rent in the amount of \$1,365.00 for October, November and December, 2009, unpaid rent, and that the landlord is entitled to compensation in that amount.

I find that the landlord's application has merit, and I find that the landlord is entitled to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

I find that the landlord is entitled to retain the tenant's security deposit plus interest, in the amount of \$212.50 in partial satisfaction of the monetary claim, as provided by section 72(2) of the Act.

### Conclusion

The landlord has been granted an Order of possession that is effective **two days after it is served upon the tenant**. This Order may be served on the tenant, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

I find that the landlord has established a monetary claim, in the amount of \$1,415.00, which is comprised of \$1,365.00 in unpaid rent and \$50.00 in compensation for the filing fee paid by the landlord for this Application for Dispute Resolution. The landlord will be retaining the tenant's security deposit plus interest, in the amount of **\$212.50**, in partial satisfaction of the monetary claim.

Based on these determinations I grant the landlord a monetary Order for the balance of **\$1,202.25**. In the event that the tenant does not comply with this Order, it may be served on the tenant, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: December 11, 2009.

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Dispute Resolution Officer