



# Dispute Resolution Services

Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      OPR, MNR

### Introduction

This hearing dealt with an application by the landlord for an order of possession and a monetary order. Despite having been personally served with the application for dispute resolution and notice of hearing on November 30, the tenant did not participate in the conference call hearing.

At the hearing the landlord asked to amend his application to include a claim for loss of income for January. I find that the tenant should reasonably have known that the landlord could not re-rent the unit while he was living therein and find that an award for occupational rent is appropriate. I allow the amendment.

### Issues(s) to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order as claimed?

### Background and Evidence

The landlord's undisputed testimony is as follows. The tenant is obligated to pay \$825.00 per month in rent on the first day of each month. The tenant failed to pay rent on November 1 and on November 2 the landlord personally served him with a 10-day notice to end tenancy. The tenant made a partial payment of \$325.00 on November 22 and a further payment of \$1,325.00 on December 30.

### Analysis

Based on the landlord's undisputed testimony I find that the tenant was served with a notice to end tenancy for non-payment of rent. The tenant did not pay the outstanding rent within 5 days of receiving the notice and did not apply for dispute resolution to dispute the notice and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice. Based on the above facts I find that the landlord is entitled to an order of possession. The tenant must be served with the order of possession. 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.

As for the monetary claim, I find that the landlord has established a claim for \$825.00 in loss of income for January and I grant the landlord an order under section 67 for the sum of \$825.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

### Conclusion

The landlord is granted an order of possession and a monetary order for \$825.00.

Dated: January 11, 2010

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