



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

### **Dispute Codes:**

OPR, MNR, FF

### **Introduction**

This hearing was convened in response to an application by the landlord pursuant to the *Residential Tenancy Act* for Orders as follows:

1. An Order of Possession - Section 55;
2. A Monetary Order for unpaid rent - Section 67;
3. An Order to recover the filing fee for this application - Section 72.

Both parties attended the in-person hearing and were each given full opportunity to be heard, to present evidence and to make submissions.

### **Issue(s) to be Decided**

Is the notice to end tenancy valid?

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to the monetary amounts claimed?

### **Background and Evidence**

The tenancy began in June 2009. The landlord has submitted they are a housing body operating a non-profit society with an agreement under the auspices of the Federal and Provincial governments and a subsidization funding agreement with BC Housing to provide subsidized rent on a varying scale to qualified tenants. Otherwise, the landlord submitted that tenants are required to pay the rent based on 30% of gross household income as per their Tenancy Agreement and BC Housing. If the tenant does not qualify for subsidized rent the tenant is not required to vacate their rental unit – rent is adjusted accordingly.

Calculated rent – which may vary - is payable in advance on the first day of each month. At the outset of the tenancy, the landlord collected a security deposit from the tenant. The tenant failed to supply the landlord with some required documentation ( bank statements) so as to verify asset levels - necessary in order for the landlord to calculate the tenant rent contribution. The tenant determined to pay the amount of rent according to their own calculations. The landlord alleges the tenant has failed to pay the required rent contribution upon which the landlord has based and on June 30, 2010 the landlord served the tenant with a notice to end tenancy for non-payment of rent by posting it on the tenant's door. The tenant disputes they received the Notice to End document. The tenant further failed to pay all required rent in the month of July, August and September 2010. The quantum of the landlord's monetary claim is in excess of \$7000. However, the landlord is fully amenable to receiving the tenant's required documentation and at the tenant's request, to recalculate the tenant's rent contribution to the beginning of 2010, which may realize an undetermined discrepancy in the amount owed by the tenant. The landlord also articulated that their position is less focused on obtaining an Order of Possession than reconciling the payable rent issues and want to work with the tenant to straighten out the financial matters in this dispute..

The tenant feels uncomfortable giving the landlord access to their bank records, as requested, but does not have an issue with paying their required rent, as calculated by the landlord. The tenant also advised that they are being deployed back to their Armed Forces positions and will vacate the rental unit on September 30, 2010. The tenant is agreeable to meet the landlord's document requirements so as to settle the rent issues before their deployment.

If necessary, the landlord requests an Order of Possession effective September 30, 2010.

### **Analysis**

Based on the landlord's testimony I find that the tenant was served with a notice to end tenancy for non-payment of rent and I find the notice to be valid. The tenant has not paid the outstanding required rent and has not applied 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 tenancy is ending as per this Order and is the result of the landlord's application for the tenancy to end – the tenant is not required to give the landlord a Notice to End the tenancy.

The landlord may well have a monetary claim of unpaid rent. However, the parties have agreed to communicate and co-operate in respect to this matter, and exchange information and documentation – specifically bank statement information - as of this date - so as the landlord can calculate or recalculate the required amount of rent – backdated to the beginning of the year – which the tenant has agreed to then pay. The parties agree to act in good faith and enable their agreement. In this regard, the landlord's application for a monetary order is **dismissed**, with leave to reapply. The landlord is entitled to recovery of the **\$50** filing fee.

### **Conclusion**

**I grant** an Order of Possession to the landlord **effective September 30, 2010**. The tenant must be served with this **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.

**I order** that the landlord may retain **\$50** from the tenant's security deposit.

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*.