



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      MNR, OPR, FF

### Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim. The landlord has also requested recovery of the \$50.00 filing fee. The landlord participated in the conference call hearing but the tenant did not. The landlord presented evidence that the tenant was served with the application for dispute resolution and notice of hearing by posting it on the door on September 15, 2010. I found that the tenant had been properly served with notice of the landlord's claim and the date and time of the hearing and the hearing proceeded in his absence.

### Issues to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order for unpaid rent and loss of income?

### Background and Evidence

The tenancy has been long standing and the landlord's records reflect that it dates back to 1989. The current monthly rental amount of \$1370.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$595.50. The tenant failed to pay rent in the month(s) of August and September and on September 15, 2010 the landlord served the tenant with a Notice to End Tenancy. The tenant further failed to pay rent in the month of October.

The landlord testified that the tenant has an on-going history of late payments and non-payment of rent and the tenant has been served with numerous notices during the time of his tenancy.

As of this date the tenant still occupies the unit but has not taken any steps towards ensuring that the amounts due are paid. The landlord testified that the tenant owes the following amounts in rent and fees:

August 2010	\$5.00 rent
September 2010	\$1370.00 rent
	\$25.00 NSF fee
	\$25.00 late fee
	\$120.00 parking fee
October 2010	\$5.00 rent
	\$1370.00 rent
	\$25.00 late fee
	\$120.00 parking fee
<b>Total Amount Due</b>	<b>\$3060.00</b>

## Analysis

Based on the documentary evidence and testimony I find that the tenant was properly 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.

As for the monetary order, I find that the landlord has established a claim for \$3060.00 in unpaid rent, bank charges, late fees and parking fees. The landlord is also entitled to recovery of the \$50.00 filing fee.

## Conclusion

I hereby issue an order of possession in favour of the landlord effective **October 31, 2010, 1:00 PM**. This Order must be served on the Tenant and may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

I find that the landlord has established a monetary claim for \$3060.00. The landlord is also entitled to recovery of the \$50.00 filing fee. I order the Landlord pursuant to s. 38(4) of the Act to keep the Tenant's \$595.50 security deposit plus interest of \$385.61 in partial satisfaction of the claim and I grant the landlord an monetary order under section 67 for the balance due of \$2128.89 ( $\$595.50 + \$385.61 = \$981.11$ )



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Pursuant to section 67 of the Act, I hereby issue a monetary order in favour of the landlord in the amount of **\$2128.89**. If the amount is not paid by the tenant, the order may be filed in the Provincial (Small Claims) Court of British Columbia 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: October 22, 2010

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Dispute Resolution Officer