



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

**Dispute Codes**     OPR, MNR, FF

### **Introduction**

This hearing was convened by way of conference call to deal with the landlord's application for an Order of Possession for unpaid rent, for a monetary order for unpaid rent and to recover the filing fee from the tenant for the cost of this application.

The parties both appeared, gave affirmed evidence, and were given the opportunity to cross examine each other on their evidence. All information has been reviewed and is considered in this Decision.

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

Is the landlord entitled to an Order of Possession for unpaid rent?

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

### **Background and Evidence**

This month-to-month tenancy began for this rental unit on March 15, 2005. The tenant had resided in another unit within the complex prior to that. Rent in the amount of \$1,268.00 is payable in advance on the 1<sup>st</sup> day of each month. On December 31, 2003 the landlord collected a security deposit from the tenant in the amount of \$440.00.

The landlord testified that the tenant has refused to acknowledge a rent increase that became effective on October 1, 2009. Prior to that date rent was \$1,223.00 per month. The tenant has continued to pay \$1,223.00 per month and owes \$495.00 for 11 months of arrears. The landlord served another notice of rent increase in accordance with the

*Residential Tenancy Act* which raised the rent to \$1,308.00 effective October 1, 2010. He stated that the tenant paid \$1,223.00 per month for the months of October 1, 2009 to August 1, 2010; \$1,268.00 on September 1, 2010; and \$1,268.00 on October 1, 2010, which now brings the total arrears to \$535.00.

The landlord served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities on September 1, 2010 by posting the notice to the door of the rental unit. That notice, a copy of which was provided in advance of the hearing, states that the tenant failed to pay rent in the amount of \$495.00 that was due on September 1, 2010 and has an expected date of vacancy of September 13, 2010.

The tenant confirmed that she had been served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, but has refused to pay the increase due to repairs required in the rental unit that have not been addressed by the landlord.

### **Analysis**

The *Residential Tenancy Act* states that a landlord may serve a tenant with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities at any time after rent is due, and the tenant has 5 days to pay the rent in full or apply for dispute resolution. If the tenant fails to apply for dispute resolution or pay the outstanding rent within that 5 day period, it is conclusively presumed that the tenant has accepted that the tenancy ends on the effective date of the notice.

I find that the notice is deemed to have been served on the tenant on September 4, 2010, and the tenant has not disputed the notice or paid the outstanding rent.

Therefore, the landlord is entitled to an Order of Possession and a monetary order for the unpaid rent.

During the course of the hearing, the landlord stated that he would be agreeable to the tenant remaining in the rental unit if the arrears were paid and the increases are recognized by the tenant. The tenant agreed to pay the arrears in the amount of \$585.00 today, which includes recovery of the \$50.00 filing fee. The tenant also agreed

to pay the amount of \$1,308.00 on November 1, 2010. If the tenant fails to pay the amounts agreed to by the dates agreed to, the landlord will serve the Order of Possession.

### **Conclusion**

I hereby grant the landlord 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 order, I find that the landlord has established a claim for \$535.00 in unpaid rent. The landlord is also entitled to recovery of the \$50.00 filing fee and I grant the landlord an order under section 67 for the balance due of \$585.00. This order may be filed in the 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: October 18, 2010.

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Dispute Resolution Officer