



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## DECISION

Dispute Codes      OPR, MNR, MNSD, & FF

### Introduction

This hearing dealt with an application for Dispute Resolution by the landlord seeking an Order of Possession and a monetary Order due to the tenant's failure to pay rent. The landlord also seeks to retain the tenant's security deposit in satisfaction of this claim.

The landlord stated that the tenant was served with notice of this application and hearing by registered mail on September 21, 2010. The landlord provided a copy of the registered mail receipt as evidence.

Based on the documentary evidence provided by the landlord, I am satisfied that the tenant was served with notice of this proceeding by registered mail and I deem that the tenant received notice on the fifth day after the registered mail was sent pursuant to section 90(a) of the *Act*.

### Issues(s) to be Decided

Has the tenant breached the tenancy agreement, *Act* or regulations entitling the landlord to an Order of Possession and monetary relief?

### Background and Evidence

The landlord provided a copy of the tenancy agreement commencing a tenancy on May 1, 2005. The current monthly rent is \$1,671.00 due the 1<sup>st</sup> of each month and a security deposit of \$775.00 paid on May 1, 2005.

The landlord testified that the tenant was served with the notice to end tenancy when it was posted to the door of the rental unit on September 2, 2010.

The landlord provided a copy of the 10 day Notice to End Tenancy due to Unpaid Rent which was signed by the landlord on September 2, 2010 and declares that the tenant failed to pay the rent owed of \$1,671.00 on September 1, 2010. The notice declares that

the tenant must vacate the rental unit by September 12, 2010 unless the tenant pays the outstanding rent owed or has filed an application for Dispute Resolution to dispute the notice within five days of receiving the notice.

The landlord testified that the tenant has the outstanding rent owed for September and part of the rent owed for October. However, the tenant still owes \$442.00 in outstanding rent and a \$20.00 late payment of rent fee. The landlord also the recovery of the \$50.00 filing fee paid for this application. The landlord seeks to retain the tenant's security deposit in satisfaction of these claims.

### Analysis

Based on the evidence provided by the landlord and in the absence of evidence to the contrary, I find that the tenant has failed to pay the rent owed of \$462.00 October 2010 as required by the tenancy agreement. I find that the tenant was served with a 10 day Notice to End Tenancy due to Unpaid rent and that the tenant failed to either pay the outstanding rent or to file an application for Dispute Resolution to dispute the notice in the five days provided by section 46(4) of the *Act*.

Pursuant to section 46(5) of the *Act*, I find that the tenant has conclusively accepted the end of the tenancy agreement effective September 12, 2010 and on this basis I grant the landlord's application seeking an Order of Possession for the rental unit.

I am satisfied by the documentary evidence provided by the landlord that the tenant failed to pay rent owed for the sum of \$462.00 for the months of October 2010. In addition, I Order that the tenant to recovery the \$50.00 filing fee paid by the landlord for this application. As a result, I find that the landlord has established a total monetary claim for the sum of **\$512.00**. I Order that the landlord may retain this sum from the tenants security deposit of \$775.00. The remaining balance of the security deposit should be dealt with in accordance with section 38(1) of the *Act*.

### Conclusion

I find that the landlord is entitled to an Order of Possession of the rental unit effective **two (2) days** after it has been served upon the tenant. This Order may be filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

Dated: October 26, 2010.

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Dispute Resolution Officer