



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

**Dispute Codes:** OPR; MNR

### **Introduction**

This matter was reconvened from a Direct Request Proceeding held on August 31, 2010. This is the Landlord's application for an Order of Possession; and a Monetary Order for unpaid rent and loss of rent.

The Landlord gave affirmed testimony at the Hearing.

The Landlord testified that he served the Tenant with the Notice of Hearing documents at the rental unit on September 9, 2010 at approximately 6:30 p.m.

Based on the affirmed testimony of the Landlord, I am satisfied that the Tenant was duly served with the Notice of Hearing documents. Despite being served with the Notice of Hearing documents, the Tenant did not sign into the teleconference and the Hearing proceeded in her absence.

### **Issues to be Decided**

- Is the Landlord entitled to an Order of Possession?
- Is the Landlord entitled to a Monetary Order, and if so, in what amount?

### **Background and Evidence**

The Landlord gave the following testimony and evidence:

Monthly rent is \$1,150.00 per month, due the first day of each month. The Tenant paid a security deposit in the amount of \$575.00 on March 23, 2010.

The Landlord provided a Proof of Service Document in evidence with attests that

on July 26, 2010, at 7:00 p.m., the Landlord served the Tenant with a 10 Day Notice to End Tenancy for Unpaid Rent, by leaving it personally with the Tenant at the rental unit. The Proof of Service Document was signed by a witness.

The Landlord testified that the Tenant provided the Landlord with a certified cheque in the amount of \$1,000.00 on September 20, 2010. The Landlord requested a monetary order for unpaid rent and loss of rent, as follows:

Unpaid rent for June, July and August, 2010	\$3,450.00
Loss of rent for September and October, 2010	\$2,300.00
Less amount paid September 20, 2010	-\$1,000.00
Less security deposit	<u>-\$575.00</u>
TOTAL AMOUNT CLAIMED	\$4,175.00

The Landlord asked for an Order of Possession, to be effective as soon as possible.

### **Analysis**

I accept that the Landlord served the Tenant with the Notice to End Tenancy on July 26, 2010. The Tenant did not pay all of the arrears, or file for dispute resolution, within 5 days of receiving the documents. Therefore, pursuant to Section 46(5) of the Act, the Tenant is conclusively presumed to have accepted that the tenancy ended on August 5, 2010. The Landlord is entitled to an Order of Possession and I make that Order, effective **two days after service of the Order on the Tenant**.

The Landlord's agent has established a monetary claim for loss of rent in the total amount of \$4,750.00.

Pursuant to Section 72(2)(b) of the Act, the Landlord may apply the security deposit towards partial satisfaction of the Landlord's monetary claim. No interest has accrued on the security deposit.

The Landlord has established a monetary claim as follows:

Unpaid rent and loss of rent	\$4,750.00
Less security deposit	- \$575.00
<b>TOTAL AMOUNT DUE TO THE LANDLORD AFTER SET-OFF</b>	<b>\$4,175.00</b>

### **Conclusion**

I hereby grant the Landlord an Order of Possession effective **two (2) days after service of the Order on the Tenant**. 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 hereby grant the Landlord a Monetary Order in the amount of **\$4,175.00** against the Tenant. This Order must be served on the Tenant and may be filed in the Provincial Court of British Columbia (Small Claims) 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 13, 2010.

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