

## **DECISION**

Dispute Codes      OPR, MNR, FF, RP

### Introduction

There is an application by the Tenant to seek action from the Landlord to make repairs to the unit. The Landlord has filed an application for an order of possession for unpaid rent resulting from a 10 day notice to end tenancy, a monetary order for unpaid rent and the recovery of the filing fee.

The Landlord attended by conference call and gave undisputed affirmed testimony.

The Tenant did not attend.

By the end of the hearing the Tenant had not called into the conference call hearing to participate. The Landlord stated at the beginning of the hearing that he was not properly served the Tenant's notice of a hearing. According to the Landlord, the Tenant left the notice on the porch of the Landlord's rear door. The Tenant's application is dismissed.

### Issues(s) to be Decided

Is the Landlord entitled to an order of possession?

Is the Landlord entitled to a monetary order?

### Background and Evidence

This tenancy began on April 1, 2010, when the Tenant entered into a new signed tenancy agreement. The monthly rent is \$1,450.00 payable on the 1<sup>st</sup> of each month and the Landlord's retain a \$725.00 security deposit applied from a previous tenancy agreement.

The Landlord states that a 10 day notice to end tenancy was served on the Tenant on November 2, 2010 by posting it to the Tenant's door. The Landlord has provided a proof of service statement from a 3<sup>rd</sup> party witness. The 10 day notice indicates unpaid rent for \$1,450.00 with a move-out date of November 11, 2010. The Landlord states that the hearing documents were sent by registered mail on November 17, 2010 and as of the date of the hearing following an attempt at service and being provided with a notice of registered mail has not collected the hearing documents.

The Landlord has provided into evidence a copy of a signed tenancy agreement, a copy of the 10 day notice to end tenancy, a registered mail receipt and a rent receipt ledger showing rent paid until August and partial rent paid in October 2010. As of the date of this hearing the Landlord states the Tenant still lives at the rental unit.

### Analysis

I am satisfied that the Landlord has properly served the 10 day notice to end tenancy by posting on the Tenant's door. I also find that the Landlord's hearing documents were properly served by registered mail. The Tenant has failed to apply for dispute resolution within 5 days of receiving the 10 day notice to end tenancy and as such is presumed to accept that the tenancy ends on the date of November 11, 2010 pursuant to section 46 (4) and (5).

Based on the above facts I find that the Landlord is entitled to 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 \$1,450.00 for the unpaid November rent. The Landlord is also entitled to recovery of the \$50.00 filing fee. I order that the Landlord retain the \$725.00 security deposit in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance of \$775.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The Landlord is granted an order of possession and a monetary order for \$775.00.  
The Landlord may retain the 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*.

Dated: November 26, 2010.

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Dispute Resolution Officer