



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      OPR, MNR , FF

### Introduction

This hearing dealt with an application by the landlord to obtain an order of possession for unpaid rent, a monetary order for unpaid rent and recovery of the filing fee. Both parties participated in the conference call hearing.

### Issues to be Decided

Is the landlord entitled to any of the above under the Act.

### Summary of Background and Evidence

This tenancy started in February 1, 2010 with rent of \$1000.00, the tenant paid a security deposit of \$500.00. On October 11, 2010 the landlord served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent.

The landlord's agent testified that the tenant currently owes the following in rent: September \$700.00, October, \$1000.00, November \$1000.00 for a total of \$2700.00. The tenant also owes \$500.00 in unpaid utilities for a total owing of \$3200.00. In mid October the tenant advised the landlord of the flood in the basement due to a toilet running all day however the landlord was never allowed access to assess or repair the damage. As the tenant did not pay the utilities they have now been disconnected. The tenants in the rear house now have no power or heat and the landlord is concerned that pipes in the main house may have frozen.

The tenant testified that she withheld rent because of the toilet flooding the basement however the tenant never attempted to contact the landlord to notify him of the situation. The tenant was advised that it was her responsibility to contact the landlord when such things happen in the rental unit and that a tenant may not withhold rent.

The tenant stated that she is in the process of moving out of the rental unit and will have completely vacated the property by 6PM on November 24. The tenant agreed in this hearing that the landlord's agent may gain access to the unit after 6PM on November 24 to check the property; the landlord's agent will also post a 24 hour notice to enter today.



# Dispute Resolution Services

Page: 2

Residential Tenancy Branch  
Ministry of Housing and Social Development

## 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 tenants 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 \$3200.00 in unpaid rent and utilities. The landlord is also entitled to recovery of the \$50.00 filing fee.

## Conclusion

I hereby grant the Landlord an **Order of Possession**, effective **2 days** after service of the Order upon 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 find that the landlord has established a monetary claim for \$3200.00. 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 \$500.00 security deposit in partial satisfaction of the claim and I grant the landlord an monetary order under section 67 for the balance due of \$2750.00 ( $\$3200.00 + \$50.00 = \$3250.00 - \$500.00 = \$2750.00$ )

Pursuant to section 67 of the Act, I hereby issue a monetary order in favour of the landlord in the amount of **\$2750.00**. 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: November 23, 2010

---

Dispute Resolution Officer