



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      MND, MNR, MNSD, OPR, O, FF

### Introduction

This hearing dealt with an application by the landlord to obtain an order of possession for unpaid rent, a monetary order for damages and unpaid rent, to keep all or part of the security deposit and recovery of the filing fee. Both parties participated in the conference call hearing and gave affirmed testimony.

### 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 late 2007 or 2008, the current monthly rent is \$2660.00, the tenant paid a security deposit of \$1250. On September 21, 2010 the landlord served the tenants with a Notice to End Tenancy for Unpaid Rent.

The landlord testified that the tenants currently owe rent in the following amounts: September \$2590.00, October \$2590.00 and November \$2660.00 for a total of \$7840.00 in unpaid rent. The tenants still occupy the rental unit and the landlord has asked for an order of possession effective 2 days after service on the tenants.

The tenant testified that they owe \$7840.00 in unpaid rent but that due to unforeseen circumstances have not had funds to pay the rent. The tenant requested that the landlord consider a time extension past the 2 days on the order of possession and that is something the landlord may consider; any such agreement should be in writing. The landlord may accept rent payment for 'use and occupancy only' and such noted payments will not nullify the order of possession.

### Analysis

Based on the documentary evidence and testimony I find that the tenants were 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



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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 \$7840.00 in unpaid rent and utilities. The landlord is also entitled to recovery of the \$100.00 filing fee.

## Conclusion

I hereby grant the Landlord an **Order of Possession**, effective **2 days** after service of the Order upon the Tenants. This Order must be served on the Tenants 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 \$7840.00. The landlord is also entitled to recovery of the \$100.00 filing fee. I order the Landlord pursuant to s. 38(4) of the Act to keep the Tenant's \$1250.00 security deposit in partial satisfaction of the claim and I grant the landlord a monetary order under section 67 for the balance due of \$6690.00. ( $\$7840.00 + \$100.00 = \$7940.00 - \$1250.00 = \$6690.00$ )

Pursuant to section 67 of the Act, I hereby issue a monetary order in favour of the landlord in the amount of **\$6690.00**. 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 19, 2010

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Dispute Resolution Officer