

## **DECISION**

Dispute Codes      CNR, OPR, FF

### Introduction

There is an application by the Tenant to cancel a notice to end tenancy resulting from a 10 day notice to end tenancy for unpaid rent.

The Landlord has made an application seeking an order of possession to end the tenancy for unpaid rent and a monetary order for unpaid rent and their filing fee.

Both parties attended by conference call and gave affirmed testimony.

The Tenant stated at the beginning of the hearing that he had vacated the rental unit on October 31, 2010, but has not yet returned the keys or given notice to the Landlord.

The Tenant wishes to withdraw their application to cancel the notice to end tenancy.

The Landlord states that as they have had no notice of the Tenant vacating, that they still wish to proceed with their entire application for dispute resolution.

### Issues(s) to be Decided

Is the Landlord entitled to an order of possession?

Is the Landlord entitled to a monetary order for unpaid rent?

### Background and Evidence

The Landlord served the Tenant with a 10 day notice to end tenancy for \$650.00 of unpaid rent for September 2010. A cheque was issued by the Tenant for September rent on September 20, 2010. A stop payment order was made by the Tenant on this cheque and the Landlord's were notified with a chargeback notice from their financial institution with a fee of \$5.00. The Tenant states that this was done because there were insufficient funds to cover that cheque and the Tenant would prefer to incur a lower fee for the stop payment request over that of a NSF fee from his financial institution. The Landlord is seeking rent arrears for September, October and November 2010 for \$650.00 for each month totalling, \$1,950.00. The Landlord is seeking an order of possession as they have had no notice by the Tenant of ending the tenancy as of this hearing date.

The Tenant has stated that he is currently moving and does not have a forwarding address he is able to provide. During the hearing it was agreed that the Tenant would pick up his copy of the decision package from the Burnaby RTB office in person.

### Analysis

The Tenant has withdrawn his application to cancel the notice to end tenancy. I am satisfied that the Landlord may have an order of possession as the Tenant has indicated during the hearing that he has already vacated the rental unit and following the hearing will drop off the keys to the unit. 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.

The Landlord has made a claim for \$1,950.00 for unpaid rent. The Tenant has not disputed this. I find that the Landlord has established a claim for \$1,950.00 for unpaid rent. The Landlord is also entitled to recovery of the \$50.00 filing fee. I grant the Landlord an order under section 67 for the balance due of \$2,000.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

### Conclusion

I grant the Landlord an order of possession and a monetary order for \$2,000.00.

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 02, 2010.

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Dispute Resolution Officer