



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

**Dispute Codes**      OPR, MNR, MNSD, MNDC, FF

### **Introduction**

This hearing was convened by way of conference call to deal with the landlord's application for an Order of Possession for unpaid rent or utilities; for a monetary order for unpaid rent or utilities; for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; for an order permitting the landlord to retain the security deposit in partial satisfaction of the claim; and to recover the filing fee from the tenant for the cost of this application.

Despite being served with the Landlord's Application for Dispute Resolution and notice of hearing documents by registered mail on October 22, 2010, the tenant did not attend the conference call hearing. The landlord attended the hearing and was assisted by an agent. The landlord gave affirmed testimony and provided evidence in advance of the hearing. All information and testimony provided has been reviewed and is considered in this Decision.

### **Issues(s) to be Decided**

Is the landlord entitled to an Order of Possession for unpaid rent or utilities?

Is the landlord entitled to a monetary order for unpaid rent or utilities?

Is the landlord entitled to a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement?

Is the landlord entitled to an order permitting the landlord to retain the security deposit in partial satisfaction of the claim?

### **Background and Evidence**

The landlord testified that this fixed term tenancy began on October 1, 2010 and ended on October 31, 2010, prior to the expiry date of the fixed term, being September 30, 2011. Rent in the amount of \$1,900.00 per month is payable under the tenancy agreement in advance on the 1<sup>st</sup> day of each month. On September 11, 2010 the landlord collected a security deposit from the tenant in the amount of \$950.00.

The tenant failed to pay rent in the month of October, 2010 and on October 13, 2010 the landlord personally served the tenant with a notice to end tenancy for non-payment of rent. A copy of the tenancy agreement and the notice to end the tenancy were provided in advance of the hearing. The tenant further failed to pay rent in the month of November, 2010.

The landlord further testified that the unit has been vacated by the tenant, however a number of personal items still remain inside the unit, and therefore the landlord requests an Order of Possession. The landlord also requests a monetary order in the amount of \$3,800.00 plus the \$50.00 filing fee, and to retain the security deposit to partially cover the amount of the claim.

### **Analysis**

Based on the landlord's testimony I find that the tenant was served with a notice to end tenancy for non-payment of rent. The tenant has not paid the outstanding rent and has not applied 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.

As for the monetary order, I find that the landlord has established a claim for \$3,800.00 in unpaid rent. The landlord is also entitled to recovery of the \$50.00 filing fee.

**Conclusion**

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.

I order that the landlord retain the security deposit and interest of \$950.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$2,900.00. This order may be filed in the Provincial Court of British Columbia, Small Claims division 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