



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      Landlord OPR, MNR, FF  
Tenant CNR

### Introduction

This hearing dealt with cross applications for Dispute Resolution filed by both the Landlord and the Tenants.

The Landlord filed seeking an Order of Possession for Unpaid Rent and Utilities, monetary compensation for unpaid rent and utilities and to recover the filing fee for this proceeding.

The Tenants filed to cancel the Notice to End Tenancy for Unpaid Rent and Utilities.

Service of the hearing documents by the Landlord to the Tenant were done by on November 10, 2010 by personal delivery in accordance with section 89 of the Act. The Tenant confirmed receipt of the Landlord's hearing package.

Service of the hearing documents by the Tenant to the Landlord was done by personal delivery on November 8, 2010 in accordance with section 89 of the Act. The Landlord confirmed receipt of the Tenant's hearing package.

The parties appeared, gave affirmed testimony, they were provided the opportunity to present their evidence orally and in written document form.

### Issues to be Decided

Landlord:

1. Does the Landlord have grounds to end the tenancy?
2. Are there rent arrears and if so, how much?
3. Is the Landlord entitled to compensation for unpaid rent and if so how much?

Tenant:

1. Is the Tenant entitled to an order to cancel the Notice to End Tenancy?



# Dispute Resolution Services

Page: 2

Residential Tenancy Branch  
Ministry of Housing and Social Development

## Background and Evidence

This tenancy started on June 1, 2000 as a month to month tenancy, it was renewed October 1, 2007 as a 1 year fixed term tenancy with an expiry date of October 1, 2008 and then renewed as a month to month tenancy. Rent is \$925.00 per month payable in advance of the 1<sup>st</sup> day of each month. The Tenant did not pay as security deposit.

The Landlord said that the Tenant did not pay \$925.00 of rent for November, 2010 when it was due and as a result, on November 2, 2010 he personally delivered a 10 day Notice to End Tenancy for Unpaid Rent or Utilities dated November 2, 2010.

The Landlord further indicated that the Tenant is living at the rental unit until December 1, 2010. The Landlord requested an Order of Possession and the Landlord requested to recover the \$50.00 filing fee for this proceeding.

The Landlord mentioned that he served a 30 Day Notice to End Tenancy dated August 31, 2010 and the Tenant did not dispute it and did not move out on the effective vacancy date October 1, 2010. The 30 Day Notice to End tenancy was not part of either party's applications. The Landlord also said the October rent was paid and he issued a receipt for use and occupancy to the Tenant.

The Tenant said that she did not pay the rent for November as she believed that the Landlord should have issued a 2 Month Notice to End Tenancy for Landlord's Use of the Property, as she was told by the Landlord he was selling the unit and she would have to move out. The Tenant said that under the 2 Month Notice she is entitled to 1 month free rent. The Tenant said that is why she did not pay the November rent.

The Tenant said that she paid the outstanding Utilities bill except for \$55.00 which the Landlord agreed to pay for water that he used. The Landlord said he would drop the Utilities bill from his application as he accepted the Tenant's testimony that the utilities bill was paid.

## Analysis

Section 26 (1) says a tenant **must** pay rent when rent is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

I find that the Tenant has not paid the overdue rent and does not have an order or the right to withhold the all or a portion of the rent. Consequently, I find pursuant to s.

Residential Tenancy Branch  
Ministry of Housing and Social Development

55(1)(b) of the Act that the Landlord is entitled to an Order of Possession to take effect 48 hours after service of it on the Tenant.

I also find that the Landlord is entitled to recover unpaid rent for November, 2010 in the amount of \$925.00.

As the Landlord has been successful in this matter, he is also entitled to recover from the Tenant the \$50.00 filing fee for this proceeding. The Landlord will receive a monetary order for the balance owing as following:

Rent arrears:	\$ 925.00
Recover filing fee	\$ 50.00
Subtotal:	\$ 975.00
Balance Owing	\$ 975.00

## Conclusion

An Order of Possession effective 2 days after service of it on the Tenant and a Monetary Order in the amount of \$975.00 have been issued to the Landlord. A copy of the Orders must be served on the Tenant: the Order of Possession may be enforced in the Supreme Court of British Columbia and the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia.

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*.