



# 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 dealt with an application by the landlord for an order of possession for unpaid rent, a monetary order for unpaid rent, to keep all or part of the security deposit, compensation for damage or loss 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 August 1, 2010 with monthly rent of \$4000.00, the tenant paid a \$2000.00 security deposit. On November 3, 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 landlord rent for the months of October 2010, \$4000.00; November 2010, \$4000.00 and December 2010, \$4000.00 for a total of \$12,000.00 in unpaid rent.

The landlord's agent has requested an order of possession with an effective date of January 6, 2011.

The landlord's agent stated in this hearing that if the tenant is able to pay all of the rent owed by December 17, 2010 that the order of possession may not be enforced and the tenancy allowed to continue.

The tenant testified that his funds have been held by the bank but that it is his intention to pay the rent.

### 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 tenant did not pay the



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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 \$12,000.00 in unpaid rent.

The landlord is also entitled to recovery of the \$50.00 filing fee.

## Conclusion

I hereby grant the Landlord an **Order of Possession** effective not later than **1:00 PM, January 6, 2011**. 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 \$12,000.00 in unpaid rent. 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 \$2000.00 security deposit in partial satisfaction of the claim and I grant the landlord an monetary order under section 67 for the balance due of **\$10,050.00** ( $\$12,000.00 + \$50.00 = \$12,050.00 - \$2000.00 = \$10,050.00$ )

A monetary order in the amount of **\$10,050.00** has been issued to the Landlord and a copy of it must be served on the Tenant. 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: December 9, 2010

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Dispute Resolution Officer