



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing and Social Development

## DECISION

Dispute Codes      OPR, MNR, & FF

### Introduction

This hearing dealt with an application for Dispute Resolution by the landlord seeking an Order of Possession and a monetary Order due to the tenants' failure to pay rent.

The landlord submitted evidence demonstrating that the tenants were served with notice of this application and hearing by registered mail on December 2, 2010.

Based on the documentary evidence provided by the landlord, I am satisfied that the tenants were served with notice of this proceeding by registered mail and I deem that the tenants received notice on the fifth day after the registered mail was sent pursuant to section 90(a) of the *Act*.

I proceeded with the hearing in the tenants' absence.

### Issue(s) to be Decided

Has the tenant breached the tenancy agreement, *Act* or regulations entitling the landlord to an Order of Possession and monetary relief?

### Background and Evidence

The landlord provided a copy of the tenancy agreement signed by the parties on March 9, 1999 commencing a tenancy on March 15, 1999 for the monthly rent of \$1,400.00 due the 1<sup>st</sup> of each month and a security deposit of \$700.00 paid on March 9, 1999. The current monthly rent is \$1,671.00.

The landlord testified that the tenants were served with the notice to end tenancy when it was posted to the door of the rental unit on October 18, 2010.

The landlord provided a copy of the 10 day Notice to End Tenancy due to Unpaid Rent which declares that the tenants failed to pay the rent owed of \$1,091.00 owed on

October 1, 2010. The notice declares that the tenants must vacate the rental unit by October 28, 2010 unless the tenants pay the outstanding rent owed or have filed an application for Dispute Resolution to dispute the notice within five days of receiving the notice.

The landlord testified that the tenants paid the outstanding rent owed from October and November except for the \$20.00 late fee and the tenants still owe the sum of \$871.00 in outstanding rent from December 2010. This sum reflects a money Order the landlord received on the morning of December 16, 2010 for the sum of \$800.00. In addition, the tenants owe another late fee of \$20.00 plus the landlord seeks to recover the \$50.00 filing fee paid for this application. The total rent owed is \$961.00.

The landlord seeks an Order of Possession for December 31, 2010 and a monetary Order for the outstanding rent and late fees owed.

### Analysis

Based on the evidence provided by the landlord and in the absence of evidence to the contrary, I find that the tenant has failed to pay the rent owed of \$961.00 for November and December 2010 as required by the tenancy agreement. I find that the tenant was served with a 10 day Notice to End Tenancy due to Unpaid rent and that the tenant failed to either pay the outstanding rent or to file an application for Dispute Resolution to dispute the notice in the five days provided by section 46(4) of the *Act*.

Pursuant to section 46(5) of the *Act*, I find that the tenant has conclusively accepted the end of the tenancy agreement effective October 28, 2010 and on this basis I grant the landlord's application seeking an Order of Possession for the rental unit effective December 31, 2010 at 1:00 p.m.

I am satisfied by the documentary evidence provided by the landlord that the tenant failed to pay rent owed for the sum of \$961.00. This sum is comprised of two late payments of rent fees, the recovery of the \$50.00 filing fee paid by the landlord for this application and the remaining rent owed. I grant the landlord a monetary Order for the sum of **\$961.00** pursuant to section 67 of the *Act*.

### Conclusion

I find that the landlord is entitled to an Order of Possession of the rental unit effective **December 31, 2010 at 1:00 p.m.** This Order may be filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

I find that the landlord has established a monetary claim due to breach of the tenancy agreement by the tenant for the sum of **\$961.00**. This Order must be served on the tenant. This Order may be filed with the Province of British Columbia Small Claims Court 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 16, 2010.

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Dispute Resolution Officer