



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      OPR, MNR, MNDC, FF

### Introduction

This matter dealt with an application by the Landlord for an Order of Possession and a Monetary Order for unpaid rent, for compensation for damage or loss under the Act, the regulations or the tenancy agreement and to recover the filing fee for this proceeding.

The Landlord said she served the Tenant with the Application and Notice of Hearing (the "hearing package") by registered mail on November 17, 2010. Based on the evidence of the Landlord, I find that the Tenant was served with the Landlord's hearing package as required by s. 89 of the Act and the hearing proceeded with both the Landlord and Tenant in attendance.

### Issues(s) to be Decided

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, damages or loss and if so how much?

### Background and Evidence

This tenancy started on September 1, 2010 as a 1 year fixed term tenancy with an expiry date of August 31, 2010. Rent is \$750.00 per month payable in advance of the 1<sup>st</sup> day of each month. The Tenant paid a security deposit of \$375.00 on August 10, 2010.

The Landlord said that the Tenant did not pay \$750.00 of rent for November, 2010, when it was due and as a result, on November 5, 2010 she personally delivered a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated November 5, 2010. The Landlord said the Tenant has unpaid rent for December, 2010 of \$750.00.

The Landlord further indicated that the Tenant is living at the rental unit.

The Landlord also sought to recover a \$50.00 internet fee for December, 2010. This fee is a service the Tenant requested in the first part of September, 2010 and is unpaid for

December, 2010. As well the Landlord requested to recover the \$50.00 filing fee for this proceeding.

The Tenant said he has had no problems with the Landlord and he is sorry that he is behind in the rent. The Tenant said he got laid off from his job so he didn't have the money to pay the rent on time. He continued to say that he is working again and hopes to have the November, 2010 rent by December 10, 2010 and possibly the December, 2010 rent in two weeks.

The Landlord said it is important that she gets the rent on time as she has financial obligation that she has to meet and she depends on the rent being paid on time.

## Analysis

Section 46(4) of the Act states that **within 5 days of receiving** a Notice to End Tenancy for Unpaid Rent or Utilities, a Tenant must pay the overdue rent or apply for dispute resolution. If the Tenant fails to do either of these things, then under section 46(5) of the Act, they are conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice and they must vacate the rental unit at that time.

Under s. 90 of the Act, the Tenant is deemed to have received the Notice to End Tenancy in person on November 5, 2010. Consequently, the Tenant would have had to pay the amount stated on the Notice or apply to dispute that amount no later than November 10, 2010.

I find that the Tenant has not paid the overdue rent and has not applied for dispute resolution. Consequently, I find pursuant to s. 55(2)(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 in the amount of \$750.00 and the unpaid rent for December of \$750.00, as well as the internet service fee of \$50.00.

As the Landlord has been successful in this matter, she is also entitled to recover from the Tenant the \$50.00 filing fee for this proceeding. I order that the Landlord pursuant to s. 67 and s. 72 of the Act will receive a monetary order for the balance owing as following:



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Rent arrears: November	\$ 750.00
Rent Arrears December	\$ 750.00
December internet fee	\$ 50.00
Recover filing fee	\$ 50.00
Subtotal:	\$1,600.00

Balance Owing	\$ 1,600.00
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## Conclusion

An Order of Possession effective 2 days after service of it on the Tenant and a Monetary Order in the amount of \$1,600.00 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*.

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