



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      OPR, MNR

### Introduction

This matter dealt with an application by the Landlord for An Order of Possession and a Monetary Order for unpaid rent

The Landlord's son said he served the Tenant with the Application and Notice of Hearing (the "hearing package") by registered mail on December 9, 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 in the Tenant's absence.

### Issues(s) to be Decided

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

### Background and Evidence

This tenancy started on April 1, 2007 as a month to month tenancy. Rent is \$1,200.00 per month payable in advance of the 1<sup>st</sup> day of each month. No security deposit was required. The Landlord's son said the Tenant is living in the rental unit and he requested an Order of Possession with an effective date as soon as possible.

The Landlord's son said that the Tenant did not pay \$600.00 of rent for August, 2010 and \$1,200.00 of rent for each month of October and November, 2010 when it was due and as a result, on November 13, 2010 he posted a 10 day Notice to End Tenancy for Unpaid Rent or Utilities dated November 13, 2010 on the Tenant's door. The Landlord continued to say that the Tenant also has unpaid rent for December, 2010 of \$1,200.00. The Landlord's son said his total claim is for \$600.00 for August and \$1,200.00 for each month of October, November and December in the amount of \$4,200.00.

## 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 on the day it was served, or on August 13, 2010. Consequently, the Tenant would have had to pay the amount stated on the Notice or apply to dispute that amount no later than August 18, 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 August, 2010 in the amount of \$600.00 and \$1,200.00 for each month of October, November and December, 2010 totalling \$4,200.00.

## Conclusion

An Order of Possession effective 2 days after service of it on the Tenant and a Monetary Order in the amount of \$4,200.00 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*.