



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

Dispute Codes      OPR, OPB, MNR, MNSD, FF

### Introduction

This hearing dealt with the landlord's application for an Order of Possession for unpaid rent and breach of an agreement with the landlord. The landlord also applied for a Monetary Order for unpaid rent and authorization to retain the security deposit. The tenants did not appear at the hearing. The landlord testified that on December 13, 2010 he personally handed the hearing documents to the respondent (referred to by initials SO) and the landlord witnessed SO give the other respondent (referred to by initials EO) another copy of the hearing package. I was satisfied these two respondents were sufficiently served with the hearing package and I proceeded to hear from the landlord without the respondents present.

The landlord had also named a third respondent (referred to by initials GP) in making this application; however, the landlord did not satisfy me that GP was a tenant or was sufficiently served and I have amended to application to exclude GP.

### Issue(s) to be Decided

1. Is the landlord entitled to an Order of Possession?
2. Is the landlord entitled to a Monetary Order for unpaid rent?

### Background and Evidence

The landlord provided the following undisputed evidence. In mid November 2010 the respondents were permitted to move into the rental unit by the former tenant. The former tenant vacated the rental unit and the landlord and the respondents made an agreement that the respondents would pay the landlord \$700.00 and be permitted to occupy the rental unit until November 30, 2010. The respondents did not vacate the rental unit and continue to reside in the rental unit. The respondents have not paid a security deposit or any rent for December 2010 or January 2011. On December 1, 2010 the landlord personally served a 10 Day Notice to End Tenancy for Unpaid Rent (the Notice) upon EO. The Notice indicates that rent of \$1,000.00 and utilities of \$200.00 was outstanding as of December 1, 2010.

Upon enquiry, the landlord testified that the former tenant was paying rent of \$1,000.00 per month plus utilities and that is why the landlord has claimed such losses for the month of December 2010.



# Dispute Resolution Services

Page: 2

Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

The landlord provided a copy of the 10 Day Notice and a document written by the respondents and witnessed by the landlord on November 15, 2010 as evidence.

## Analysis

Upon review of the document signed by the respondents and the landlord on November 15, 2010 I accept that a tenancy formed between the parties and that the terms of the tenancy were such that the tenancy would end and the tenants would vacate the rental unit no later than November 30, 2010.

I accept that the respondents are tenants and that the Act applies to the parties. I also find that the tenants breached their agreement with the landlord to vacate the rental unit by November 30, 2010 as recorded by the parties in writing. Therefore, I grant the landlord's request for an Order of Possession. The Order of Possession is effective two (2) days after service upon the tenants and may be enforced in The Supreme Court of British Columbia as an Order of that court.

Upon review of the 10 Day Notice issued December 1, 2010 I find it to be invalid as it does not comply with the requirements of the Act and is no force or effect. However, I accept the landlord's testimony that the former tenant was paying rent of \$1,000.00 per month and that the landlord has suffered a loss of rent for the month of December 2010 as a result of the tenants' failure to vacate the rental unit. I do not find sufficient evidence to support the landlord's request for loss of \$200.00 with respect to utilities. Further, I accept there is no security deposit to offset the landlord's loss.

In light of the above, I award the landlord the filing fee paid for this application and I provide the landlord a Monetary Order in the amount of \$1,050.00 to serve upon the tenants. The Monetary Order may be enforced in Provincial Court (Small Claims) as an Order of that court.

## Conclusion

The tenancy ended November 30, 2010 and the landlord has been provided an Order of Possession effective two days after service upon the tenants. The landlord has also been provided a Monetary Order in the amount of \$1,050.00 to serve upon the tenants.

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: January 06, 2011.

---

Residential Tenancy Branch