



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

**Dispute Codes:** OPR; MNR; FF

### **Introduction**

This is the Landlords' application for an Order of Possession; a Monetary Order for unpaid rent; and to recover the cost of the filing fee from the Tenant.

The Landlord GM gave affirmed testimony at the Hearing.

The Landlord testified that the Notice of Hearing documents were mailed to the Tenant, via registered mail, to the rental unit on December 17, 2010. The Landlord provided a copy of the registered mail receipt and tracking number in evidence along with a copy of the Canada Post tracking printout. The printout indicates that the Tenant received the documents on December 20, 2010.

Based on the affirmed testimony of the Landlord and the documentary evidence provided by the Landlord, I am satisfied that the Tenant was duly served with the Notice of Hearing documents by registered mail. Despite being served with the Notice of Hearing documents, the Tenant did not sign into the teleconference and the Hearing proceeded in his absence.

### **Issues to be Decided**

- Is the Landlord entitled to an Order of Possession?
- Is the Landlord entitled to a Monetary Order for unpaid rent for the months of October and November, 2010?

### **Background and Evidence**

The Landlord GM gave the following testimony:

The tenancy began in February, 2010. At the beginning of the tenancy, the Tenant paid a security deposit in the amount of \$300.00. Monthly rent is \$600.00 per month, due the first day of each month.

On November 2, 2010, at 1:00 p.m., the Landlord served the Tenant with a 10 Day Notice to End Tenancy for unpaid rent for the months of October and November, by posting the Notice on the Tenant's door at the rental unit. The Landlord provided a Proof of Service document in evidence, which attests to the service and is signed by a witness.

The Landlord testified that the Tenant has not paid any money towards rent since September, 2010, and remains in the rental unit.

The Landlord asked to apply the security deposit towards the monetary award.

## **Analysis**

I accept that the Landlord GM served the Tenant with the Notice to End Tenancy by posting the Notice on the Tenant's door on November 2, 2010. Pursuant to the provisions of Section 90 of the Act, service in this manner is deemed to be effected three days after posting the documents. The Tenant did not pay any of the arrears, or file for dispute resolution, within 5 days of receiving the documents. Therefore, pursuant to Section 46(5) of the Act, the Tenant is conclusively presumed to have accepted that the tenancy ended on November 15, 2010. The Landlords are entitled to an Order of Possession and I make that Order, **effective 2 days after service of the Order on the Tenant.**

The Landlords have established a monetary claim for unpaid rent for October and November, 2010, in the total amount of \$1,200.00. The Landlords did not apply for loss of rent for the months of December, 2010 or January 2011, and are at liberty to do so.

Pursuant to the provisions of Section 72(2)(b) of the Act, the Landlords may apply the security deposit towards partial satisfaction of their monetary award. No interest has accrued on the security deposit.

The Landlords have been successful in their application and are entitled to recover the cost of the \$50.00 filing fee from the Tenant.

I hereby provide the Landlords with a Monetary Order, calculated as follows:

Unpaid rent for October and November, 2010	\$1,200.00
Recovery of the filing fee	\$50.00
Subtotal	\$1,250.00
Less security deposit	- \$300.00
<b>TOTAL AMOUNT DUE TO THE LANDLORDS AFTER SET-OFF</b>	<b>\$950.00</b>

## **Conclusion**

I hereby provide the Landlords with an Order of Possession **effective 2 days after service of the Order upon the Tenant.** This Order must be served on the Tenant and may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.



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I hereby provide the Landlords with a Monetary Order in the amount of **\$950.00** against the Tenant. This Order must be served on the Tenant and may be filed in the Provincial Court of British Columbia (Small Claims) 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: January 11, 2011.

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