



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

### Dispute Codes:

OPR, MNR, MNSD, FF

### Introduction

This hearing was scheduled in response to the Landlord's Application for Dispute Resolution, in which the Landlord has made application for an Order of Possession for Unpaid Rent and to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution. It is readily apparent from information contained on the Application for Dispute Resolution that the Landlord is also seeking a monetary Order in the amount of \$1,610.15, and the Application for Dispute Resolution has been amended accordingly.

Both parties were represented at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, to present relevant oral evidence, to ask relevant questions, and to make relevant submissions to me.

### Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to an Order of Possession for unpaid rent; to a monetary Order for unpaid rent; and to recover the filing fee from the Tenant for the cost of the Application for Dispute Resolution, pursuant to sections 38, 55, 67, and 72 of the *Residential Tenancy Act (Act)*.

### Background and Evidence

The Landlord and the Tenant agree that this tenancy began on May 01, 2009 and that the Tenant is required to pay monthly rent of \$675 on the first day of each month and that she is required to pay gas charges for the rental unit.

The Landlord and the Tenant agree that the Tenant currently owes rent of \$1,400.00 for rent that was due on, or before, January 01, 2011. The parties also agree that the Tenant owes gas charges of \$210.15.

The Landlord and the Tenant agree a Ten Day Notice to End Tenancy for Unpaid Rent, which had a declared effective date of November 26, 2010 was posted on the Tenant's door on November 16, 2010. The Notice declared that the Tenant owed \$725.00 in rent that was due on November 01, 2010. The parties agree that since the Notice to End



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Tenancy was served the Tenant paid rent for December but she did not pay the outstanding rent that was due on November 01, 2010.

## Analysis

Based on the undisputed evidence, I find that the Tenant entered into a tenancy agreement with the Landlord that requires the Tenant to pay monthly rent of \$675.00 on the first day of each month; that the Tenant is required to pay gas bills associated to the rental unit; and that the Tenant currently owes \$1,400 in rent and \$210.15 in gas charges. As her tenancy agreement requires the Tenant to pay rent and gas charges, I find that the Tenant must pay \$1,610.15 to the Landlord.

If rent is not paid when it is due, section 46(1) of the *Act* entitles landlords to end the tenancy within 10 days if appropriate notice is given to the tenant. Based on the undisputed evidence, I find that a Notice to End Tenancy was posted on the Tenant's door on November 16, 2010, which declared that the Tenant must vacate the rental unit by November 26, 2010.

Section 90 of the *Act* stipulates that a document that is posted on a door is deemed to be received on the third day after it is posted. I therefore find that the Tenant received the Notice to End Tenancy on November 19, 2010.

Section 46(1) of the *Act* stipulates that a 10 Day Notice to End Tenancy is effective ten days after the date that the tenant receives the Notice. As the Tenant is deemed to have received this Notice on November 19, 2010, I find that the earliest effective date of the Notice was November 29, 2010.

Section 53 of the *Act* stipulates that if the effective date stated in a Notice is earlier than the earliest date permitted under the legislation, the effective date is deemed to be the earliest date that complies with the legislation. Therefore, I find that the effective date of this Notice to End Tenancy was November 29, 2010.

Section 46 of the *Act* stipulates that a Tenant has five (5) days from the date of receiving the Notice to End Tenancy to either pay the outstanding rent or to file an Application for Dispute Resolution to dispute the Notice. In the circumstances before me I have no evidence that the Tenant exercised either of these rights and, pursuant to section 46(5) of the *Act*, I find that the Tenant accepted that the tenancy has ended. On this basis I will grant the landlord an Order of Possession.



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I find that the Landlord's application has merit and that the Landlord is entitled to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

## Conclusion

I hereby grant the Landlord an Order of Possession that is effective at 1:00 p.m. on January 31, 2011. In the event that the parties are unable to reach an agreement to reinstate this tenancy, this Order may be served on the Tenant, 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, in the amount of \$1,660.15, which is comprised of \$1,400.00 in unpaid rent, \$210.15 in unpaid gas charges, and \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution. Based on these determinations I grant the Landlord a monetary Order for the amount of \$1,660.15. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, 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: January 07, 2011.

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Residential Tenancy Branch