



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

**Dispute Codes**      OPR, MNR, MNSD, MNDC, FF

### **Introduction**

This hearing was convened by way of conference call to deal with the landlord's application for an Order of Possession for unpaid rent or utilities; for a monetary order for unpaid rent or utilities; for an order permitting the landlord to retain the security deposit in partial satisfaction of the claim; for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; and to recover the filing fee from the tenant for the cost of this application.

Despite being served personally with the Landlord's Application for Dispute Resolution and notice of hearing documents on December 26, 2010, the tenant did not attend the conference call hearing. The landlord attended the hearing with his daughter assisting. Both gave affirmed testimony. All information and testimony provided has been reviewed and is considered in this Decision.

### **Issue(s) to be Decided**

Is the landlord entitled to an Order of Possession for unpaid rent or utilities?  
Is the landlord entitled to a monetary order for unpaid rent or utilities?  
Is the landlord entitled to retain the security deposit in partial satisfaction of the claim?  
Is the landlord entitled to a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement?

### **Background and Evidence**

The landlord testified that this month-to-month tenancy began on September 15, 2010 and the tenant still resides in the rental unit. Rent in the amount of \$900.00 per month is payable, however the tenancy agreement, a copy of which was provided in advance of the hearing does not state when during the month rent is payable. The landlord

testified that the parties had a verbal agreement to pay rent in advance on the 1<sup>st</sup> day of each month.

At the outset of the tenancy, the landlord collected a security deposit from the tenant in the amount of \$450.00 and the tenant paid for half a month's rent for the month of September, 2010. The tenant failed to pay rent in full for the month of October, 2010 at the beginning of the month, paying \$380.00 on the third or fourth of the month, and the tenant paid another \$1,020.00 at the end of October. The tenant failed to pay rent in full for the month of November and paid no rent for the month of December, 2010 and on December 8, 2010 the landlord served the tenant with a notice to end tenancy for non-payment of rent. A copy of that notice was provided in advance of the hearing, which states that the tenant has failed to pay rent in the amount of \$1,300.00 that was due on December 1, 2010. The tenant further failed to pay rent in the month of January, 2011.

### **Analysis**

Based on the landlord's testimony I find that the tenant was served with a notice to end tenancy for non-payment of rent. I further find that the tenant was required to pay monthly, and in the absence of evidence to the contrary, I find that rent was payable in advance on the 1<sup>st</sup> day of each month. The tenant has not paid the outstanding rent and has not applied for dispute resolution to dispute the notice and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice. Based on the above facts I find that the landlord is entitled to an Order of Possession.

As for the monetary order, I find that the landlord has established a claim for \$2,200.00 in unpaid rent. The landlord is also entitled to recovery of the \$50.00 filing fee.

### **Conclusion**

I hereby grant an Order of Possession in favor of the landlord. The tenant must be served with the Order of Possession. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

I further order that the landlord retain the security deposit and interest of \$450.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the balance due of \$1,800.00. This order may be filed in

the Provincial Court of British Columbia, Small Claims division 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 18, 2011.

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Residential Tenancy Branch