



# 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 conference call hearing was convened in response to the landlord's application for an Order of Possession for unpaid rent, a Monetary Order for unpaid rent, and to recover the filing fees associated with this application.

The landlord participated in the hearing and provided affirmed testimony. He testified that he served the Notice of Dispute Resolution to the landlord by way of registered mail sent December 21<sup>st</sup>, 2010. The tenant did not participate and the hearing proceeded in the landlord's absence.

### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to a Monetary Order, and for what amount?

### Background and Evidence

The rental unit consists of a bachelor suite in a multi unit complex located in Coquitlam. Pursuant to a written agreement, the fixed term tenancy was based on a one year lease starting on November 1<sup>st</sup>, 2009 and ending October 31<sup>st</sup>, 2010, at a rate of \$675.00 payable on the first of each month. At the end of the fixed term tenancy, the parties agreed that the tenancy would continue on a month to month basis. The tenant paid a security deposit in the amount of \$337.50.

The landlord submitted that the tenant still owes \$384.66 for September 2010, and that the rent cheques for October, November, and December 2010 were returned “NSF”.

The landlord testified that he last spoke to the tenant 3 weeks ago and that the he informed the tenant of the hearing

The landlord submitted an updated monetary claim as follows:

- Unpaid rent for September 2010:      \$ 384.66
- Unpaid rent for October 2010:      \$ 675.00
- Unpaid rent for November 2010:      \$ 675.00
- Unpaid rent for December 2010:      \$ 675.00
- Bank fees for NSF cheques:      \$ 75.00
- Unpaid rent for January 2011:      \$ 675.00
- Total:      \$3159.66

## Analysis

Section 46(5) of the *Residential Tenancy Act* provides that if a tenant who has received a notice to end tenancy for non-payment of rent does not pay the rent or makes an application for dispute resolution within 5 days, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must vacate the rental unit by that date. The tenant in this matter has not filed an application for dispute resolution.

I accept the landlord’s undisputed testimony that he served the tenant with the Notice of Dispute Resolution in a proper manner pursuant to the *Residential Tenancy Act*.



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I find that the tenant knew, or ought to have had knowledge of the date scheduled for this hearing. Based on the available evidence, I find that the landlord is entitled to an Order of Possession and a Monetary Order for the full amount.

## Conclusion

I grant the landlord an Order of Possession effective two days from the date the Order is served upon the tenant.

This Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

I authorize the landlord to retain the tenant's \$337.50 security deposit for a balance owing of \$2822.16. Since the landlord was successful, I award the landlord recovery of the \$50.00 filing fee for a Monetary Order totalling \$2872.16.

This Order may be registered in the 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 13, 2011.

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Residential Tenancy Branch