



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

Dispute Codes      OPR, MNR

### Introduction

This conference call hearing was convened in response to the landlord's application for an Order of Possession and a Monetary Order for unpaid rent.

Both parties attended the hearing and provided affirmed testimony. They presented oral evidence and confirmed receipt of the material they intended to submit at the hearing.

### 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 single detached home located in Whistler.

Pursuant to a written agreement, the fixed term tenancy was based on a non-renewable, one year lease starting on September 25<sup>th</sup>, 2010 and ending on September 25<sup>th</sup>, 2011. The monthly rent was \$4000.00 payable on the 25<sup>th</sup> of each month. The tenant paid a security deposit in the amount of \$2000.00, and still requires to pay an additional \$500.00 for a pet damage deposit.

The landlords provided in part written submissions of the tenants' rent cheques either returned "NSF" or not cleared by the bank for the months of November and December

2010. The landlords also provided email correspondence threads, wherein the tenant's pleas for the landlords' patience with payments establish proof of unpaid rent.

The landlords testified that to date, the tenant continues to be in arrears for the December 2010 and January 2011 rents and the pet damage deposit for the sum of \$8500.00. The landlord stated that on December 15<sup>th</sup>, 2010, they served the tenant in person with a 10 Day Notice to End Tenancy effective December 26<sup>th</sup>, 2010.

The tenant does not dispute the landlords' written evidence or their oral testimony. He stated that he was waiting for a large sum of money, and that he hoped to resolve this matter very soon. The landlords applied for an Order of Possession should the tenant come short on his promise.

### 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. Accordingly, I find that the Notice to End Tenancy was valid.

The evidence was not disputed by the tenant. Based on their testimony, I find that the landlords are entitled to an Order of Possession and a Monetary Order as claimed.

### Conclusion

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

If necessary, this Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

Pursuant to Section 67 of the Act, I grant the landlords a monetary order for the sum of \$8500.00. I authorize the landlord to retain the tenant's security deposit towards partial satisfaction of that sum for the balance of \$6500.00.

If necessary, 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 24, 2011.

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Residential Tenancy Branch