



# 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 a Dispute Resolution Hearing to the tenant by way of registered mail sent January 13<sup>th</sup>, 2011. The tenant did not participate and the hearing proceeded in the tenant'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 three bedroom townhouse located in Vancouver. Pursuant to a written agreement, the month to month tenancy started on September 20<sup>th</sup>, 2010. The monthly rent of \$1375.00 was payable on the first of each month. The tenant paid a security deposit in the amount of \$687.50 however the landlord testified that the cheque was returned "NSF" by the bank (no sufficient funds).

The landlord testified that the tenant has not paid rent since the start of the tenancy. The landlord said that on January 26<sup>th</sup>, 2011, the tenant told him that he does not have money to pay the rent.

The landlord stated that he served the tenant with a 10 Day Notice to End Tenancy by posting the notice on the tenant's door on October 16<sup>th</sup>, 2010. The landlord said that he sent RTB a copy of the notice as part of his documentary evidence via fax, however these documents were not available at the time of the hearing.

The landlord made an updated monetary claim for four months of unpaid rent totalling \$5500.00.

### Analysis

Although there was no documentary evidence, on the landlord's undisputed testimony I accept that he served the tenant with the Notice of Dispute Resolution in a proper manner pursuant to the *Residential Tenancy Act*. I am satisfied that the tenant knew, or ought to have had knowledge of the date scheduled for this hearing.

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, the landlord's 10 Day Notice to End Tenancy is valid and the landlord is entitled to an Order of Possession. Based on his evidence, I also find that the landlord is entitled to a Monetary Order.

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.

The landlord has established a claim of \$5500.00. Since he was successful, I award the landlord recovery of the \$50.00 filing fee. Pursuant to Section 67 of the Act, I grant the landlord a monetary order for the sum of \$5550.00.

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 27, 2011.

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Residential Tenancy Branch