



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

Dispute Codes      FF, MND, MNR, MNSD, OPC

### Introduction

This hearing was convened in response to an application by the landlord pursuant to the *Residential Tenancy Act* for Orders as follows:

1. An Order of Possession - Section 55;
2. A Monetary Order for unpaid rent - Section 67;
3. A Monetary Order for damage – Section 67;
4. An Order to retain the security deposit - Section 38;
5. An Order to recover the filing fee for this application - Section 72.

Both the Landlord and the Tenant appeared for the hearing and gave evidence.

### Issue(s) to be Decided

Is the landlord entitled to an Order for Possession?

Is the Landlord entitled to the monetary amounts claimed?

### Background and Evidence

The Landlord and Tenant entered into a month to month lease agreement on November 1, 2010 with rent in the amount of \$850. A damage deposit in the amount of \$450 was paid to the Landlord at the start of the tenancy. The Tenant agreed that a balance of \$556.50 remains payable for the February 2011 rent. At the time of the hearing, the Tenant continues to live in the disputed residence.

The Landlord served the Tenant with a 1 Month Notice for Cause on January 24, 2011 with a vacate date of February 28, 2011. The Tenant confirmed receiving that Notice and confirmed that an Application for Dispute Resolution was not filed in response. The Landlord served the Notice of Hearing to the Tenant on February 11, 2011 and the Tenant confirmed that service.

### Analysis

Section 47 of the Act provides that where a landlord gives a Notice to End Tenancy for cause and the tenant does not make an application for Dispute Resolution within 10 days after the date the tenant receives the notice, 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.

Based on the information confirmed by both the Landlord and Tenant, I find that the Tenant was served with a notice to end tenancy for cause and I find the notice to be valid. The Tenant 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. I therefore find that the Landlord is entitled to an **Order of Possession**.

Given the Tenant's acknowledgement of unpaid rent for February 2011, I further find that the Landlord has established a claim for \$556.50 in unpaid rent and is entitled to a Monetary Order for that amount. The landlord is further entitled to recovery of the \$50 filing fee for a total entitlement of \$606.50.

I find that the Landlord is entitled to retain the security deposit of \$450.00 against the above entitlements, with a balance entitlement of **\$156.50** ( $606.50 - 450.00 = 156.50$ ).

As the Tenant continues to reside at the residence and attention to the Tenant's requirement to leave the residence in clean and proper condition may yet occur, I decline to consider the Landlord's claim respecting damage to the residence and hereby

dismiss this part of the application, with leave to reapply. I also dismiss the landlord's claim for future lost rent, with leave to reapply.

Conclusion

**I grant** an Order of Possession to the landlord **effective 1:00 p.m., February 28, 2011.**

The tenant must be served with this 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 order** that the Landlord retain the security deposit of \$450 in partial satisfaction of the claim and I grant the landlord an Order under Section 67 of the Act for the balance due of **\$156.50**. If necessary, this order may be filed 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: February 28, 2011.

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Residential Tenancy Branch



# Residential Tenancy Branch

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## Now that you have your decision...

You might want more information about what to do next.

If you do, visit the RTB website at [www.rto.gov.bc.ca](http://www.rto.gov.bc.ca) for information about:

- How and when to enforce an order of possession:  
Fact Sheet RTB-103: Landlord: Enforcing an Order of Possession
- How and when to enforce a monetary order:  
Fact Sheet RTB-108: Enforcing a Monetary Order
- How and when to have a decision or order clarified or corrected:  
Fact Sheet RTB-111: Clarification or Correction of Orders and Decisions
- How and when to apply for the review of a decision:  
Fact Sheet RTB-100: Review of a Residential Tenancy Branch Decision **(Please Note: Legislated deadlines apply)**

If you would like to personally speak with Residential Tenancy Branch (RTB) staff or listen to our 24 Hour Recorded Information Line, please call:

- Lower Mainland: 604-660-1020
- Victoria: 250-387-1602
- Elsewhere in BC: 1-800-665-8779

Contact any Service BC Centre or visit the RTB office nearest you. For current information on locations and office hours, visit the RTB web site at [www.rto.gov.bc.ca](http://www.rto.gov.bc.ca)