



# Dispute Resolution Services

Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## DECISION

Dispute Codes      OPR, MNR, MNSD, FF

### Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim. Both parties participated in the conference call hearing.

At the hearing the landlord asked to amend his claim to include a claim for loss of income for the months of January and February. I find that the tenant should reasonably have known that the landlord could not re-rent the unit while she was still residing therein and I permit the amendment.

### Issues to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order for unpaid rent and loss of income?

### Background and Evidence

The facts are not in dispute. The tenancy began in January 2010. Rent in the amount of \$750.00 is payable in advance on the first day of each month. Although the landlord made a claim to retain the security deposit, a security deposit was never collected. The tenant a total of \$1,250.00 during the tenancy. On December 31 the landlord served the tenant with a notice to end tenancy.

### Analysis

I find that on December 31, 2010 the tenant was served with a notice to end tenancy for non-payment of rent. The tenant did not pay the outstanding rent within 5 days of receiving the notice and did not apply 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. 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.

As for the monetary order, the parties agreed that as of the date of the hearing the landlord is owed \$8,415.28. I find that the landlord is also entitled to recover the \$50.0 filing fee paid to bring his application and I grant the landlord an order under section 67 for \$8,465.28. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

### Conclusion

The landlord is granted an order of possession and a monetary order for \$8,465.28. The landlord may retain the security deposit.

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 08, 2011

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Residential Tenancy Branch