



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

**Dispute Codes**      OPR, MNR, FF

### **Introduction**

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for orders as follows:

1. A monetary order for unpaid rent;
2. An Order of Possession;
3. An Order to recover the filing fee pursuant to Section 72.

The tenant appeared by his agent. Both parties were given full opportunity to be heard, to present evidence and to make submissions.

On the basis of the solemnly sworn evidence presented at the hearing a decision has been reached.

### **Issue(s) to be Decided**

Is the landlord is entitled to monetary order for unpaid rent, an Order of Possession and recovery of the filing fee.

### **Background and Findings**

#### **Monetary Order**

##### ***Rental Arrears***

Agent for the tenant says the tenant has already moved out of the rental unit.

The landlord says this is not the case as there are still furnishings/goods in the rental unit and the tenant has not returned the keys. The landlord says rent is \$750.00 per month however the tenant paid only \$375.00 for December 2010 rent and nothing for January, February or March 2011.

The tenant's agent submitted that she is pregnant and on social assistance and will not be paying off any rental arrears ordered.

While the tenant's agent says the tenant has vacated the rental unit, the landlord's evidence is that the tenant remains in possession of the rental unit and he has not returned the keys or moved all of his belongings out. I will therefore allow a monetary award as follows that is as follows:

December 2010 rental arrears	\$375.00
January 2011	750.00
February 2011	750.00
March 2011	750.00
Total Arrears	\$2625.00

The landlord testified that she did not claim the security deposit because the cheque for the security deposit paid was returned due to non-sufficient funds so the landlord does not hold a security deposit.

I will therefore provide the landlord with a monetary order for the total amount of the arrears as set out above.

### **Order of Possession**

Based on the testimony at the hearing the landlord would be entitled to an Order for Possession as there is outstanding rent. However, the landlord has not provided a copy of the 10 Day Notice to End Tenancy that she says she served on the tenant. Without evidence that a valid Notice was served which sets out the payment options open to tenants and time frames allowed to dispute the Notice, I am not prepared to issue an Order of Possession.

I therefore dismiss the landlord's application for an Order of Possession with leave to reapply.

### **Filing Fees**

I find that the landlord is entitled to recover the filing fees paid for this application.

***Calculation of total Monetary Award***

Rental Arrears	\$2,625.00
Filing Fees for the cost of this application	50.00
<b>Total Monetary Award</b>	<b>\$2,675.00</b>

**Conclusion**

The landlord is provided with a formal copy of an order for the total monetary award as set out above. Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Provincial Court of British Columbia.

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*.

---