



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **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 fee associated with this application.

Both parties attended the hearing and provided affirmed testimony. They were given a full opportunity to be heard, to present evidence and to make submissions.

### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to a Monetary Order, and if so for what amount?

Is the landlord entitled to recover the filing fee?

### Background and Evidence

The rental unit consists of a two bedroom apartment in a multi unit complex. The landlord testified that pursuant to a written agreement, the tenancy started on October 1<sup>st</sup>, 2010. The rent is \$1250.00 and the tenant paid a security deposit of \$625.00.

The landlord testified that the tenant paid the rent arrears since the filing of her application. In her documentary evidence, she provided a copy of the 10 Day Notice to End Tenancy dated September 3<sup>rd</sup>, 2011 with an effective date of September 13<sup>th</sup>, 2011. The landlord said that the tenant paid the rent for that month on October 4<sup>th</sup>,

2011. The landlord withdrew her application for a monetary order; however requested an order of possession.

The tenant did not dispute the landlord's documentary evidence or her testimony; he testified that he encountered financial difficulties that caused him to be late with his rent, and that these problems would be resolved by 1:00PM today.

### Analysis

The tenant did not pay the rent on time pursuant to the notice. 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 is entitled to an order of possession.

### 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.

I authorize the landlord to recover the \$50.00 filing fee by deducting that amount from the tenant's 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: October 20, 2011.

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Residential Tenancy Branch