



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, MNDC, 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 money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, and for unpaid rent; and to recover the filing fee associated with this application.

The landlord participated in the hearing and provided affirmed testimony. She testified that he served the Notice of a Dispute Resolution Hearing to the tenants by way of registered mail sent on October 25<sup>th</sup>, 2011, and provided a Canada Post tracking number. The tenants did not participate and the hearing proceeded in the tenants' absence.

### 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 townhouse in a multi-unit complex. Pursuant to a written agreement, the fixed term tenancy started on July 1st, 2011 and was to end on June

30th, 2012. The rent is \$875.00 per month and the tenants paid a security deposit of \$437.50.

The landlord testified that she believes the tenants vacated approximately one week ago, however the tenants' furnishings are still in the unit. Concerning the unpaid rent, the landlord submitted an updated monetary claim as follows:

- Unpaid rent for October 2011:       \$ 870.00
- Late fee:                               \$ 20.00
- Unpaid rent for November 2011:   \$ 875.00
- Late fee:                               \$ 20.00
- Sub-total:                             \$1785.00

In her documentary evidence, the landlord provided a copy of the 10 Day Notice to End Tenancy, with proof of service that the notice was served to the tenants on October 2<sup>nd</sup>, 2011, by posting the notice on the tenants' door. The tenant stated that she has not heard from the tenants since that date.

### Analysis

I accept the landlord's undisputed testimony that she served the tenants with the Notice of Dispute Resolution in a proper manner pursuant to section 89 of the *Residential Tenancy Act*. I find that the tenants 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 tenants in this matter have not filed an application for

dispute resolution. The landlord's Notice to End Tenancy is valid and on that basis the landlord is entitled to an order of possession.

I also accept the landlord's updated evidence concerning the unpaid rent and find that the landlord is entitled to a monetary order as claimed at the hearing.

### 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 established a claim of \$1785.00. I authorize the landlord to retain the tenants' \$437.50 security deposit for a balance owing of \$1347.50. Since the landlord was successful, I award the landlord recovery of the \$50.00 filing fee. Pursuant to Section 72(2) of the Act, I grant the landlord a Monetary Order totalling \$1397.50.

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: November 15, 2011.

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Residential Tenancy Branch