

## **DECISION**

Dispute Codes      OPR, MNR, MNDC, MNSD, FF

### Introduction

This is an application filed by the Landlord for an order of possession resulting from a 10 day notice to end tenancy for unpaid rent, a monetary order request for unpaid rent, for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, recovery of the filing fee and to keep all or part of the security deposit.

The Landlord attended the hearing by conference call and gave undisputed testimony. The Tenant did not attend.

The Landlord states that the Tenant was served with the notice of hearing documents by registered mail on November 17, 2011 and has submitted documentary evidence of the Canada Post Registered Mail Receipts as confirmation.

At the beginning of the hearing, the Landlord's details of dispute state that the Tenant partially paid the rent of \$500.00 on November 10, 2011 and then during the hearing stated that the Tenant paid the remaining November Rent arrears of \$475.00. The Landlord states that he is still seeking an order of possession and a monetary order for unpaid rent for December of 2011. As of the date of this hearing, the Landlord states that December rent of \$975.00 remains unpaid and that the Tenant is still in possession of the rental unit.

### Issue(s) to be Decided

Is the Landlord entitled to an order of possession?

Is the Landlord entitled to a monetary order?

### Background and Evidence

The Landlord has submitted documentary evidence of a signed tenancy agreement which states that this tenancy began on February 14, 2011 on a fixed term tenancy for 6 months ending on August 31, 2011 and then thereafter on a month to month basis. The

monthly rent is \$975.00 payable on the 1<sup>st</sup> of each month and a security deposit of \$487.50 was paid on February 4, 2011.

The Landlord states that the Tenant was served with a 10 day notice to end tenancy for unpaid rent on November 2, 2011 and has submitted a copy of the notice with a proof of service document stating that it was witnessed as being posted on the door on that date. The Landlord's details state that a partial payment of \$500.00 was made on November 10, 2011 and the remainder paid at the end of the month.

The Landlord state that the Tenant's are still in possession of the rental unit and have failed to pay rent of \$975.00 due for December 1, 2011. As of the date of this hearing on December 2, 2011, the Landlord claims that the Tenant has not paid the December rent.

The Landlord seeks an order of possession based upon the original 10 day notice to end tenancy for unpaid rent dated November 2, 2011 and a monetary order for unpaid rent for the month of December 2011 of \$975.00.

### Analysis

I accept the Landlord's undisputed testimony and find that the Tenant was served with the notice of hearing package by registered mail on November 17, 2011 by Canada Post and the notice to end tenancy for unpaid rent. The Tenant is deemed to have been served 5 days later being served by registered mail. The notice to end tenancy for unpaid rent is deemed to have been served 3 days later when posted on the door. 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 upon 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, I find that the Landlord has established a claim for \$975.00 in unpaid rent. The Landlord is also entitled to recovery of the \$50.00 filing fee. I order that the Landlord retain the \$487.50 security deposit in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of \$537.50. 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 \$537.50.  
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: December 02, 2011.

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Residential Tenancy Branch