

## **DECISION**

Dispute Codes      OPR, MNR, 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 and recovery of the filing fee.

The Landlord attended the hearing by conference call and gave undisputed testimony. The Tenant did not attend. The Landlord states that the notice of hearing documents were sent by registered mail to the Tenant at the dispute address. The Landlord states that the Tenant as of the date of this hearing is still in possession and has not paid any rent for November or December of 2011. The Landlord has submitted a copy of the Canada Post Registered Mail Receipt in evidence which shows that the package was sent on November 24, 2011. The Landlord also states that checking on-line with Canada Post shows that the registered mail package is unclaimed by the Tenant and will be returned to the sender. I am satisfied that the Tenant has been properly served with the notice of hearing documents pursuant to the Act. The Tenant is deemed served 5 days after it was sent on November 29, 2011.

### 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 states that the tenancy began on July 1, 2002 on a month to month basis. The current monthly rent is \$375.00 and is due on the 1<sup>st</sup> of each month. The Tenant paid a security deposit of \$175.00 to the Landlord on July 1, 2002.

The Landlord states that the Tenant was personally served with the 10 day notice to end tenancy for unpaid rent on November 5, 2011 as opposed to the noted November 15, 2011 on the submitted copy. The Landlord states that no rent has been paid for the months of November or December.

### Analysis

I accept the Landlord's undisputed testimony and I find that the Tenant was served with a notice to end tenancy for unpaid 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. The effective date of the notice is automatically corrected to November 15, 2011 in lieu of the Landlord's direct testimony. 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 \$750.00 for unpaid rent for November and December at \$375.00 for each month. The Landlord is also entitled to recovery of the \$50.00 filing fee. I order that the Landlord retain the \$175.00 security deposit and the \$6.19 in interest which has accrued to the date of this judgement in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of \$617.81. 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 \$617.81. The Landlord may retain the security deposit and the accrued interest.

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 09, 2011.

---

Residential Tenancy Branch