



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: CNR, FF / OPR

### Introduction

This hearing was scheduled in response to the tenant's application for cancellation of a notice to end tenancy / and recovery of the filing fee. Both parties attended and / or were represented at the hearing and gave affirmed testimony.

During the hearing the landlord orally confirmed the wish to obtain an order of possession in the event the tenant's application to cancel the notice is unsuccessful.

By way of letter faxed to the Residential Tenancy Branch on December 15, 2011, the tenant requested an adjournment of the hearing for personal reasons. The tenant's request was reiterated during the hearing by the tenant's agent. However, in the circumstances, the landlord declined to agree to the request and the hearing proceeded.

### Issue(s) to be Decided

Whether either party is entitled to any of the above under the Act, Regulation or tenancy agreement.

### Background and Evidence

Pursuant to a residential tenancy agreement, a copy of which is not in evidence, the month-to-month tenancy began on July 1, 2011. Monthly rent is \$1,550.00 and a security deposit of \$775.00 was collected.

The landlord issued a 10 day notice to end tenancy for unpaid rent dated November 25, 2011. The notice was served by way of posting on the tenant's door on that same date. A copy of the notice was submitted in evidence. Subsequently, while the tenant filed an application to dispute the notice on November 30, 2011, she has made no further payment toward rent and she continues to reside in the unit. The landlord testified that on the basis of unpaid rent for each of the months of October, November and December, outstanding rent presently totals \$4,650.00 (3 x \$1,550.00)

### Analysis

Based on the documentary evidence and testimony of the parties, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent dated November 25, 2011. While the tenant applied to dispute the notice within 5 days of receiving it, she made no payment toward the outstanding rent within that time. The tenant is therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the notice. Accordingly, I find that the landlord has established entitlement to an order of possession.

Following from the above, the tenant's application for cancellation of the notice to end tenancy is hereby dismissed, as is the application to recover the filing fee.

### Conclusion

I hereby issue and **order of possession** in favour of the landlord effective not later than **two (2) days** after service on the tenant. This Order must be served on the tenant. 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.

The tenant's application is hereby dismissed in its entirety.

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 16, 2011.

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Residential Tenancy Branch