



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, MNDC, FF

### Introduction

This hearing dealt with an application by the landlord for an order of possession and a monetary order. Despite having been served with the application for dispute resolution and notice of hearing by registered mail on December 9, the tenant did not participate in the conference call hearing.

### Issues to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order for unpaid rent and loss of income?

### Background and Evidence

The landlord's undisputed testimony is as follows. The tenancy began on or about November 1, 2011. Rent in the amount of \$1,400.00 is payable in advance on the first day of each month. The tenant provided a cheque for November rent and a cheque for the security deposit, both of which were returned by the bank for insufficient funds. On November 25, 2011 the landlord served the tenant with a notice to end tenancy by posting the notice on the door of the rental unit. The tenant further failed to pay rent in the month of December. The landlord seeks to recover possession of the unit, rental arrears and loss of income through the end of January 2012.

### Analysis

I accept the landlord's undisputed testimony and I find that the tenant did not pay rent for the month of November and on November was served with a notice to end tenancy for non-payment of rent, which she is deemed to have received on November 28. 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 on 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 is entitled to recover the unpaid rent for the months of November and December, totalling \$2,800.00. I accept that the landlord will not be able to secure a new tenant for January 1 and I award him a further \$700.00 in lost income for the period from January 1-15. I dismiss the claim for lost income for January 16-31 with leave to reapply in the event the landlord is unable to re-rent the property for that period. I also award the \$50.00 filing fee paid to bring this application and I grant the landlord an order under section 67 for a total of \$3,550.00. 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 \$3,550.00.

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 28, 2011

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Residential Tenancy Branch