

## **DECISION**

Dispute Codes      OPR, MNR, MNDC, FF

### Introduction

This is an application filed by the Landlord for an order of possession 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 stated that the Tenants were served by Canada Post Registered Mail on December 30, 2011 with the notice of hearing and evidence package. The Landlord has submitted the Canada Post Registered Mail Receipt as proof of service. I am satisfied based upon the undisputed testimony and documentary evidence submitted that the Tenant was properly served. The Landlord states that the Tenant still occupies and has possession of the rental.

### 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

This Tenancy began on October 1, 2010 on a fixed term tenancy until September 30, 2011 and then thereafter on a month to month basis as shown in the submitted copy of the signed tenancy agreement. The monthly rent is currently \$995.00 payable on the 1<sup>st</sup> of each month and a security deposit of \$487.50 was paid on September 30, 2010.

The Landlord states that the Tenant was served with a 10 day notice to end tenancy for unpaid rent on December 7, 2011 by posting it on the door. The notice dated December 7, 2011 displays unpaid rent of \$915.00 (which the Landlord states was a clerical error and should have been \$995.00) that was due on December 1, 2011. The Landlord states that the Tenant made a partial rent payment on December 13, 2011 of \$715.00 for which a receipt was issued for use and occupancy only. The Landlord states that the Tenant is currently in arrears for \$300.00 for the month of December 2011 and unpaid rent for January 2012 of \$1,015.00 (consisting of \$995.00 and \$20.00 for a late rent fee) for a total monetary claim of \$1,315.00.

### Analysis

I accept the Landlord's undisputed testimony and 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. 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 \$1,315.00 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 \$877.50. 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 \$877.50. 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: January 16, 2012.

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Residential Tenancy Branch