



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPC, MNR, MND and FF

### Introduction

This hearing was convened on the landlord's application of December 13, 2011 for an Order of Possession pursuant to a Notice to End Tenancy for cause served on November 5, 2011. Causes cited included repeated late payment of rent, unreasonable number of occupants, putting the landlord's property at significant risk, extraordinary damage, failure to do required repairs and breach of a material term of the rental agreement not corrected after written notice. The landlord also seeks a Monetary Order for unpaid rent, damage to the rental unit and recovery of the filing fee for this proceeding.

As the tenancy has not yet ended and the tenant still has time to remedy any damages, I cannot consider that part of the landlord's application in the present hearing.

Despite having been served with the Notice of Hearing in person on November 5, 2011, the tenant did not call in to the number provided to enable her participation in the telephone conference call hearing. Therefore, it proceeded in her absence.

### Issue(s) to be Decided

This matter requires a decision on whether the landlord is entitled to an Order of Possession in support of the Notice to End Tenancy and a Monetary Order for unpaid rent.

### Background and Evidence

There is no written tenancy agreement but, according to the landlord, this tenancy began approximately four years ago. Rent is \$1,250 per month and there is no security deposit.

During the hearing, the landlord gave evidence that the Notice to End Tenancy of November 5, 2011 had been served after the tenant had a rent shortfall for many months and an accumulated rent arrears of \$2,000 to \$3,000.

In the interim, the tenant has paid no rent for November and December 2011 and January 2012.

The landlord gave further evidence that he has received numerous complaints from neighbours of the rental unit concerning debris on the property and he has been ordered by the municipality to have it cleaned up. He further stated that the tenant has from, time to time, six or seven occupants.

### Analysis

Section 47(5) and (6) of the *Act* provides that a tenant may make an application to dispute a Notice to End Tenancy for cause within 10 days of receipt of the notice; otherwise, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the notice and must vacate the rental unit by that date.

While the landlord erred in setting the end of tenancy date, it is automatically corrected to December 31, 2011 by section 53 of the *Act*.

I find that the tenant has not made application to contest the Notice to End Tenancy and is, therefore, conclusively presumed to have accepted that the tenancy ended on December 31, 2011 and is now over holding.

I further accept the evidence of the landlord that the tenant has paid no rent for November or December 2011 and award \$1,250 for each of those two months.

However, as I do not have a detailed accounting of the accumulated rent shortfall, I cannot make an award on that claim.

As the application has succeeded on its merits, I find that the landlord is entitled to recover the filing fee for this proceeding from the tenant.

Thus, I find that the landlord is entitled to a Monetary Order calculated as follows:

November 2011 rent	\$1,250.00
Filing fee	<u>50.00</u>
<b>TOTAL</b>	<b>\$2,550.00</b>

### Conclusion

The landlord's copy of this decision is accompanied by an Order of Possession, enforceable through the Supreme Court of British Columbia, to take effect two days from service of it on the tenant.

The landlord's copy of this decision is also accompanied by a Monetary Order for **\$2,550.00**, enforceable through the Provincial Court of British Columbia, for service on the tenant.

The landlord is at liberty to make application for any further losses or damage as may be ascertained at the conclusion of the tenancy.

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 03, 2012.

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Residential Tenancy Branch