



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, FF

### Introduction

This hearing was convened by way of conference call in response to an application made by the landlord for an Order of Possession for unpaid rent or utilities, or a monetary order for unpaid rent or utilities, and to recover the filing fee from the tenant for the cost of this application.

The landlord attended the conference call hearing, provided affirmed testimony and provided evidence in advance of the hearing. However, despite being served with the Landlord's Application for Dispute Resolution and notice of hearing documents personally on November 14, 2011 and by registered mail on November 15, 2011, the tenant did not attend. The landlord testified that service was effected twice, and provided a registration number for the registered mail. I am satisfied that the tenant was served in accordance with the *Residential Tenancy Act*.

All evidence and testimony provided have been reviewed and are considered in this Decision.

### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent or utilities?

Is the landlord entitled to a monetary order for unpaid rent or utilities?

### Background and Evidence

The landlord testified that this month-to-month tenancy began on April 1, 2011 and the tenant still resides in the rental unit. According to the tenancy agreement, a copy of which was provided in advance of the hearing, rent in the amount of \$650.00 per month is payable in 2 instalments, being half on the 1<sup>st</sup> of the month and the other half on the 15<sup>th</sup> day of each month. At the outset of the tenancy the landlord collected a security

deposit from the tenant in the amount of \$325.00. No pet damage deposit was collected.

The landlord also testified that the tenant has never paid rent on time, and currently \$650.00 is outstanding for November, 2011. The landlord served the tenant personally with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities on November 3, 2011, a copy of which was provided in advance of the hearing. The notice is dated November 3, 2011 and states that the tenant failed to pay rent in the amount of \$325.00 that was due on the 1<sup>st</sup> of November, 2011, and contains an expected date of vacancy of November 13, 2011. The landlord stated that the \$325.00 payment for November 15, 2011 also has not been received, and upon speaking to the tenant, the tenant advised that since the landlord has served the notice, the tenant will not be paying any rent.

The landlord claims an Order of Possession for unpaid rent, a monetary order for unpaid rent in the amount of \$650.00 and recovery of the \$50.00 filing fee for the cost of this application.

### Analysis

The *Residential tenancy Act* states that a tenant must pay rent when it is due. I have reviewed the tenancy agreement, and I find that the tenant was obligated under the agreement to pay the landlord \$325.00 on the 1<sup>st</sup> of November, 2011 and an additional \$325.00 on the 15<sup>th</sup> of November, 2011. The tenant did not attend the hearing to dispute the notice, and in the absence of any evidence to the contrary, I find that the landlord has established a claim for \$650.00 in unpaid rent.

The *Act* also states that if a tenant does not pay rent when it is due, the landlord may serve the tenant with the notice to end tenancy. The tenant has 5 days from the date of service to dispute the notice or pay the rent in full. If the tenant fails to do so, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice. In this case, the tenant did not dispute the notice and did not pay the outstanding rent, and allowed the rent to go further into arrears by failing to make the payment on November 15, 2011. Therefore, I find that the landlord is entitled to an Order of Possession.

Since the landlord has been successful with the claim, the landlord is also entitled to recovery of the \$50.00 filing fee for the cost of this application.

The *Residential Tenancy Act* also states that where a tenant is required to pay any amount to a landlord, the amount may be deducted from any security deposit held by

the landlord, and I find that order would be reasonable in this case, which amount will be deducted from the amount due to the landlord.

### Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favour of the landlord on 2 days notice to the tenant. This order may be filed in the Supreme Court of British Columbia for enforcement as an order of that Court.

I further order the landlord to keep the security deposit in the amount of \$325.00 and I grant the landlord a monetary order pursuant to Section 67 of the *Residential Tenancy Act* for the balance due of \$375.00.

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: November 30, 2011.

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Residential Tenancy Branch