



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, MNSD, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an order of possession, a monetary order and to recover the filing fee.

Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail on January 27, 2012, the tenant did not appear. The landlord testified that the tenant was served via registered mail to the address at which the tenant resides, provided the tracking number for the registered mail envelope and successfully demonstrated sufficient delivery of the documents under Section 89 of the Residential Tenancy Act (the "Act"). Thus the hearing proceeded in the tenant's absence.

The landlord appeared, gave affirmed testimony and was provided the opportunity to present his evidence orally and in documentary form, and make submissions to me.

### Issue(s) to be Decided

Is the landlord entitled to a monetary order, an order of possession and to for recovery of the filing fee?

### Background and Evidence

The landlord testified that this month to month tenancy began approximately 2 ½ years ago, monthly rent is \$850.00, and a security deposit was paid by the tenant at the beginning of the tenancy.

The landlord stated that he no longer holds a security deposit as he agreed to allow the tenant to use the deposit for part of a rent payment during the course of the tenancy.

The landlord gave affirmed testimony and supplied evidence that on January 6, 2012, he served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice"), by posting on the door. The Notice stated the amount of unpaid rent was \$1,900.00. Documents served in this manner are deemed served three days later under

section 90 of the Act. Thus the effective vacancy date of January 16, 2012, listed on the Notice is automatically corrected to January 19, 2012.

The Notice informed the tenant that the Notice would be cancelled if the rent was paid within five days. The Notice also explained the tenant had five days to dispute the Notice.

I have no evidence before me that the tenant applied to dispute the Notice. The landlord provided evidence and gave affirmed testimony that the tenant has made partial payments of rent since the issuance of the Notice, those being \$1,000.00 on February 3, 2012, and \$400.00 on February 9, 2012.

The landlord's evidence shows that the landlord issued the tenant a receipt for the payments, with the term "occupancy only" on the receipt.

The landlord stated that the tenant currently owes \$500.00 in unpaid rent.

### Analysis

Based on the above testimony and evidence, and on a balance of probabilities, I find as follows:

The tenant has not paid all the outstanding rent and did not apply to dispute the Notice and 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.

I find that the landlord is entitled to an order of possession effective **two days** after service on the tenant.

I am enclosing an order of possession with the landlord's Decision. This order is a **legally binding, final order**, and may be filed in the Supreme Court of British Columbia should the tenant fail to comply with this order of possession.

I find that the landlord has established a total monetary claim of **\$550.00** comprised of outstanding rent of **\$500.00** and the **\$50.00** filing fee paid by the landlord for this application.

I grant the landlord a monetary order under authority of section 67 of the Act for the amount of **\$550.00**.

I am enclosing a monetary order for **\$550.00** with the landlord's Decision. This order is a **final, legally binding order**, and may be filed in the Provincial Court of British Columbia (Small Claims) should the tenant fail to comply with this monetary order.

Conclusion

The landlord is granted an Order of Possession and a monetary order for **\$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: February 15, 2012.

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Residential Tenancy Branch