



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, MNSD, FF

### Introduction

This hearing dealt with an application by the landlord for an order of possession for unpaid rent, a monetary order for unpaid rent, to keep all or part of the security deposit and recovery of the filing fee. Both parties participated in the conference call hearing.

### Issue(s) to be Decided

Is the landlord entitled to any of the above under the Act.

### Background and Evidence

This tenancy began June 2008 and the tenant currently pays a market rent of \$899.00; the tenant paid a security deposit of \$402.50.

On December 7, 2011 the landlord served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent.

The landlord testified that the tenant had paid the \$899.00 December 2011 rent and as the cheque was returned as NSF the tenant was served with a notice to end tenancy on December 7, 2011. The landlord stated that the tenant then paid the January 2012 rent and that cheque was also returned as NSF. The landlord stated that the tenant did make a \$1200.00 payment towards the rent on January 16, 2012 and the landlord provided the tenant with a receipt stating 'for use and occupancy only'.

The landlord stated that the \$899.00 February 2012 rent has also been paid by the tenant. The landlord stated that there is currently a balance of \$1547.00 in unpaid rent and \$50.00 in late fees owed to the landlord.

The tenant stated that her rent should not be \$899.00 as this is subsidized housing and the rent is based on her income. The tenant stated that she had spoken to the landlord

late last year that her hours had been cut at work and she would not be able to afford the rent.

The landlord stated that the tenant had been advised that she had to submit current information regarding her income to the subsidy office in order for the rent to be re-calculated. The landlord stated that the tenant had also been advised that she would be placed on a waiting list for a rent subsidy as all of those funds for the current year have been allocated. The landlord stated that as of January 31, 2012 the tenant had not submitted her financial information to the subsidy office for consideration.

The tenant claimed that no one told her to submit her financial information however the tenant stated that when she went to the ministry for assistance they had advised her to submit her current information to have the rent subsidized.

As the tenant remains in the rental unit and the rent remains unpaid, the landlord has requested an Order of Possession for February 29, 2012. The landlord requested to not claim against the security deposit in this application as the tenant remains in the rental unit.

The tenant in turn stated that she would get a money order and pay the rent in full today.

### Analysis

Based on the documentary evidence and testimony of the parties, I find that the tenant was properly served with a notice to end tenancy for non-payment of 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 on the above facts I find that the landlord is entitled to an order of possession and a monetary order for unpaid rent.

The tenant made a payment towards the unpaid rent on January 16, 2012 however the landlord did provide the tenant with a receipt stating 'for use and occupancy only' which ensures that the notice to end tenancy remains in effect. And although this is a subsidized housing property, the tenant has not taken any steps towards providing the required information to qualify for and be placed on a wait list for subsidized rent.

Accordingly I find that the landlord is entitled to a monetary order for \$1547.00.

As the landlord has been successful in their application the landlord is entitled to recovery of the \$50.00 filing fee.

Conclusion

I hereby grant the landlord an **Order of Possession** effective not later than **1:00 PM, February 29, 2012**. This Order must be served on the tenant(s) and may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

I find that the landlord has established a monetary claim for \$1547.00 in unpaid rent and late fees. The landlord is also entitled to recovery of the \$50.00 filing fee. I grant the landlord a monetary order under section 67 for the amount of **\$1597.00**.

If the amount is not paid by the tenant(s), the Order may be filed in the Provincial (Small Claims) Court of British Columbia and enforced as an order of that court.

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 1, 2012

---

Residential Tenancy Branch