



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPR, MNR, MNSD, MNDC, FF

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent and for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover his filing fee for this application from the tenant pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions and to cross-examine one another.

The landlord testified that he handed the tenant the 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) on January 2, 2012. The tenant denied that the landlord ever provided him a 10 Day Notice for January 2012, although he admitted that the landlord has issued 10 Day Notices for this tenancy in the past. The parties agreed that on January 13, 2012, the landlord sent and the tenant later received a copy of the landlord's dispute resolution hearing package by registered mail. However, the tenant testified that the landlord's dispute resolution hearing package did not include a copy of the 10 Day Notice. I am satisfied that the landlord served a copy of the dispute resolution hearing package to the tenant in accordance with the *Act*, although the contents of that package remain at issue.

### Issues(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent? Is the landlord entitled to a monetary award for unpaid rent and losses arising out of this tenancy? Is the landlord entitled to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary award requested? Is the landlord entitled to recover the filing fee for this application from the tenant?

### Background and Evidence

This month-to-month tenancy commenced on July 1, 2011. Monthly rent is set at \$525.00, payable in advance on the first of each month, plus 10% of the utility cost for the rental property. The landlord continues to hold the tenant's \$262.50 security deposit paid on July 1, 2011.

The landlord issued the 10 Day Notice on January 2, 2012 because the tenant paid only \$450.00 towards his outstanding rent on January 2, 2012. The landlord testified that there was \$75.00 owing from January 2012 rent plus \$100.00 from December 2011. The landlord identified \$179.45 in outstanding rent on the January 2, 2012 10 Day Notice and \$45.00 in unpaid utilities owing from December 2011. The tenant testified that he paid all of his December 2011 rent, but admitted that he did not pay \$75.00 of his January 2012 rent and has not paid any portion of his February 2012 rent.

### Analysis

Pursuant to section 63 of the *Act*, the dispute resolution officer may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During the hearing the parties discussed the issues between them, engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

At the hearing, the parties agreed to the following terms to resolve the issues in dispute between them:

1. The tenant agreed to pay the landlord \$450.00 on the day of the hearing, February 3, 2012.
2. The tenant agreed to pay the landlord \$344.00 by 5:00 p.m. on February 17, 2012.
3. Both parties agreed that if the tenant abides by the above monetary terms of this agreement, the landlord's 10 Day Notice will be cancelled and this tenancy will continue.
4. Both parties agreed that if the tenant does not abide by the above monetary terms of this agreement, the tenancy will end by 1:00 p.m. on February 19, 2012, by which time the tenant will have vacated the rental unit.
5. Both parties agreed that the above settlement resolves all issues in dispute arising out of this tenancy at this time.

### Conclusion

To give effect to the settlement reached between the parties and as discussed at the hearing, I issue the attached Order of Possession to be used by the landlord **only** if the

tenant does not abide by the terms of this agreement, requiring the tenant to vacate the rental premises by February 19, 2012, in accordance with their agreement. Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

In order to implement the above settlement reached between the parties, I issue a monetary Order in the landlord's favour in the amount of \$794.00. I deliver these Orders to the landlord in support of the above agreement for use **only** in the event that the tenant does not abide by the monetary terms of the above settlement. The landlord is provided with these Orders in the above terms and the tenant must be served with a copy of these Orders as soon as possible. Should the tenant fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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 03, 2012

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Residential Tenancy Branch