



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Dispute Codes:

**OPR, MNR, FF**

### Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has made application for an Order of Possession for Unpaid Rent, a monetary Order for unpaid rent and to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained, evidence was reviewed and the parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present affirmed oral testimony and to make submissions during the hearing. I have considered all of the evidence and testimony provided.

The tenant confirmed that the male tenant was served with Notice of this hearing, personally by the landlord.

### Preliminary Matter

The application was amended to include a claim for unpaid February, 2012, rent owed.

### Issue(s) to be Decided

Is the landlord entitled to an Order of possession for unpaid rent?

Is the landlord entitled to a monetary Order for unpaid rent?

Is the landlord entitled to filing fee costs?

### Background and Evidence

The tenancy commenced in June 2012, when the tenants moved in to a new unit rented by the landlord. Rent was \$1,025.00 until December, 2011 and effective January 1, 2012, increased, as provided by the Act, to \$1,045.00

The tenant confirmed receipt of a (10) Day Notice to End Tenancy for Unpaid Rent, which had an effective date of January 12, 2012, that was given to her on January 2, 2012.

The Notice indicated that the Notice would be automatically cancelled if the landlord received **\$1,175.00** within five days after the tenants were assumed to have received the Notice. The Notice also indicated that the tenants were presumed to have accepted that the tenancy was ending and that the tenants must move out of the rental by the date set out in the Notice unless the tenants filed an Application for Dispute Resolution within five days.

The tenants did not dispute the Notice.

The tenant confirmed that some payments have been made and did not disagree that from October 2011, to February, 2012, they woe

The landlord stated that the tenants have made the following payments:

	Owed	Paid	Balance Owed
January 2012	1045.00	700.00	345.00
December 2011	1025.00	700.00	325.00
November 2011	1025.00	200.00	
		375.00	450.00
October 2011	1025.00	350.00	
		400.00	275.00
<b>TOTAL</b>	<b>5165.00</b>	<b>2725.00</b>	<b>2440.00</b>

The amounts owed and paid were provided by the landlord during the hearing; the tenant did not dispute this submission.

### Analysis

The tenant acknowledged service of a Notice to End Tenancy that required the tenants to vacate the rental unit on January 12, 2012, pursuant to section 46 of the Act.

Section 46 of the Act stipulates that a tenant has five (5) days from the date of receiving the Notice to End Tenancy to either pay the outstanding rent or to file an Application for Dispute Resolution to dispute the Notice. The tenants have paid some rent, but have failed to pay all of the rent owed within 5 days of receipt of the Notice. Therefore, pursuant to section 46(5) of the Act, I find that the tenant accepted that the tenancy has ended. On this basis I will grant the landlord an Order of Possession that is effective two days after the order is served.

In the absence of evidence to the contrary, I find that the tenants have not paid rent in the amount of \$2,440.00 for rent owed from October, 2011, to February, 2012, inclusive, and that the landlord is entitled to compensation in that amount. This amount takes into account the arrears claimed by the landlord.

I find that the landlord's application has merit and that the landlord is entitled to recover the filing fee from the tenants for the cost of this Application for Dispute Resolution.

### Conclusion

The landlord has been granted an Order of Possession that is effective 2 days after service to the tenants. This Order may be served on the tenant, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

I find that the landlord has established a monetary claim, in the amount of \$2,290.00, which is comprised of unpaid rent from October 2011, to February, 2012, inclusive and \$50.00 in compensation for the filing fee paid by the landlord for this Application for Dispute Resolution.

Based on these determinations I grant the landlord a monetary Order in the sum of \$2,290.00. In the event that the tenants do not comply with this Order, it may be served on the tenants, filed with the Province of British Columbia Small Claims Court 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 02, 2012.

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Residential Tenancy Branch