



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, FF

### Introduction

This conference call hearing was convened in response to the landlord's application for an Order of Possession for unpaid rent and utilities; a Monetary Order for unpaid rent and utilities; and to recover the filing fee associated with this application.

The landlord participated in the hearing and provided affirmed testimony. He testified that he served the Notice of a Dispute Resolution Hearing to the tenant by way of registered mail sent on February 2, 2012, and provided a Canada Post tracking number. The tenant did not participate and the hearing proceeded in the tenant's absence.

### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to a Monetary Order, and if so for what amount?

Is the landlord entitled to recover the filing fee?

### Background and Evidence

The rental unit consists of a basement suite in a single detached home. Pursuant to a written agreement, the month to month tenancy started on May 15, 2011. The rent is \$875.00 per month and the landlord accepted a security deposit of \$700.00, which the landlord acknowledged as being more than half the amount allowed by statute.

The landlord testified that the tenant gave partial rent for January 2011, that she did not pay her share of the utilities, and that she did not pay rent for February 2012. In his documentary evidence, the landlord provided a copy of the 10 Day Notice to End Tenancy served on the tenant on January 15, 2012 by posting the notice on the tenant's door.

The landlord submitted a claim as follows:

- Unpaid rent for January 2012:           \$ 195.00
- Unpaid utilities:                         \$ 150.00
- Unpaid rent for February 2012:       \$ 875.00
- Sub-total:                                 \$1220.00

### Analysis

I accept the landlord's undisputed testimony that he served the tenant with the Notice of Dispute Resolution in a proper manner pursuant to section 89 of the *Residential Tenancy Act*. I find that the tenant knew, or ought to have had knowledge of the date scheduled for this hearing.

Section 46(5) of the *Residential Tenancy Act* provides that if a tenant who has received a notice to end tenancy for non-payment of rent does not pay the rent or makes an application for dispute resolution within 5 days, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must vacate the rental unit by that date. The tenant in this matter has not filed an application for dispute resolution. The landlord's Notice to End Tenancy is valid and on that basis the landlord is entitled to an order of possession.

On the landlord's documentary evidence and undisputed testimony I also accept that the tenant did not pay rent and utilities and that the landlord is entitled to recover the loss of rental income as claimed.

Conclusion

I grant the landlord an Order of Possession effective two days from the date the order is served upon the tenant.

This Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

The landlord established a claim of \$1220.00. I authorize the landlord to retain the tenant's \$700.00 security deposit for a balance owing of \$520.00. Since the landlord was successful, I award the landlord recovery of the \$50.00 filing fee. Pursuant to Section 67 of the Act, I grant the landlord a Monetary Order totalling \$570.00.

This Order may be registered in the 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 15, 2012.

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Residential Tenancy Branch