



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: OPR, MNR, MND, MNDC, MNSD, FF

### Introduction

This hearing was scheduled in response to the landlord's application for an order of possession / a monetary order as compensation for unpaid rent / compensation for damage to the unit, site or property / compensation for damage or loss under the Act, Regulation or tenancy agreement / retention of the security deposit / and recovery of the filing fee. Both parties participated in the hearing and gave affirmed testimony.

### Issue(s) to be Decided

Whether the landlord is entitled to any of the above under the Act, Regulation or tenancy agreement.

### Background and Evidence

Pursuant to a written tenancy agreement, a copy of which is not in evidence, the tenancy began on August 1, 2007. Monthly rent of \$1,400.00 is payable in advance on the first day of each month, and a security deposit of \$700.00 was collected.

Arising from rent which remained overdue on January 1, 2012, the landlord issued a 10 day notice to end tenancy for unpaid rent dated January 6, 2012. The notice was served in person on the tenant on that same date. A copy of the notice was submitted in evidence. Subsequently, the tenant has made no further payment toward rent and she continues to reside in the unit.

### Analysis

Based on the documentary evidence and testimony of the parties, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent dated January 6, 2012. The tenant did not pay the outstanding rent within 5 days of receiving the notice and did not apply to dispute the notice. The tenant 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. Accordingly, I find that the landlord is entitled to an order of possession. The landlord requested that the order of possession be effective February 29, 2012.

As for the monetary order, I find that the landlord has established a claim of \$5,750.00. This is comprised of rent in the total amount of \$4,300.00 which was overdue on January 6, 2012 (pursuant to the 10 day notice), and \$1,400.00 in rent for February 2012, as well as the \$50.00 filing fee. I order that the landlord retain the security deposit of \$700.00, in addition to accrued interest effective February 29, 2012 in the amount of \$14.97 (total: \$714.97), and I grant the landlord a monetary order under section 67 of the Act for the balance owed of \$5,035.03 (\$5,750.00 - \$714.97).

### Conclusion

I hereby issue an order of possession in favour of the landlord effective **February 29, 2012**. This order must be served on the tenant. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

Pursuant to section 67 of the Act, I hereby issue a monetary order in favour of the landlord in the amount of \$5,035.03. Should it be necessary, this order may be served on the tenant, filed 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 07, 2012.

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Residential Tenancy Branch