



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, FF

### Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order of Possession - Section 55;
2. A Monetary Order for unpaid rent - Section 67; and
3. An Order to recover the filing fee for this application - Section 72.

I accept the Landlord’s evidence that the Tenant was served with the application for dispute resolution and notice of hearing by registered mail in accordance with Section 89 of the Act. The Tenant did not participate in the conference call hearing. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

### Issue(s) to be Decided

Is the notice to end tenancy valid?

Is the Landlord entitled to an Order of Possession?

Is the Landlord entitled to the monetary amounts claimed?

### Background and Evidence

The tenancy began on January 1, 2007. Rent in the amount of \$650.00 is payable in advance on the fifth day of each month. At the outset of the tenancy, the Landlord collected a security deposit from the Tenant in the amount of \$325.00. On January 3, 2012, the Tenant paid \$200.00 towards the rent for January 2012 and on January 16, 2012, the Landlord served the Tenant with a notice to end tenancy for non-payment of rent (the “Notice”) by posting the Notice on the door. On January 25 and 27, 2012, the

Tenant paid the rental arrears and the Landlord provided the Tenant with a receipt noting acceptance of the monies for “use and occupancy only”. The Tenant paid February rent in full over two payments by February 9, 2012 and the Landlord again provided the Tenant with receipts noting acceptance of the monies for “use and occupancy only”. The Landlord informed the Tenant that they would be proceeding with the application to obtain an Order for Possession. The Tenant has not filed an application to dispute the Notice.

### Analysis

Section 46 of the Act requires that upon receipt of a Notice to End Tenancy for non-payment of rent the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If the tenant does neither of these two things, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice.

Based on the Landlord’s undisputed evidence I find that the Tenant was served with a notice to end tenancy for non-payment of rent and I find the notice to be valid. The Tenant has not filed an application to dispute the notice and while the Tenant has paid the outstanding rental arrears, the monies were accepted by the Landlord for “use and occupancy only”. Given these facts, I find that the Landlord is entitled to an **Order of Possession**. As no rental arrears are outstanding, I dismiss the Landlord’s claim for unpaid rent. The Landlord is entitled to recovery of the \$50 filing fee and I order the Landlord to deduct this amount from the security deposit.

### Conclusion

**I grant** an Order of Possession to the Landlord effective 1:00 p.m. on February 29, 2012. The Tenant must be served with this **Order of Possession**. 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.

I Order the Landlord to deduct the amount of \$50.00 from the security deposit in full satisfaction of the claim.

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.

---

Residential Tenancy Branch