



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR MND MNR MNSD MNDC FF

### Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim. The tenant did not participate in the conference call hearing. The landlord served the tenant with the application for dispute resolution and notice of hearing by registered mail on January 30, 2012. Section 90 of the Act states that a document is deemed to have been served five days after mailing. I find that the tenant was deemed served with notice of the hearing on February 4, 2012.

### Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order?

### Background and Evidence

The tenancy began on October 28, 2011, with monthly rent in the amount of \$895. At the outset of the tenancy, the landlord collected a security deposit from the tenant in the amount of \$450. The tenant failed to pay rent in the month of December 2011 and on January 9, 2012 the landlord served the tenant with a notice to end tenancy for non-payment of rent. The tenant further failed to pay rent in the months of January 2012 and February 2012.

The landlord has claimed \$2685 in unpaid rent and lost revenue for December 2011 through February 2012; \$75 for three late payment fees; and \$550 for a sofa that the landlord sold to the tenant.

### Analysis

Based on the landlord's testimony I find that the tenant was served with a notice to end tenancy for non-payment of rent. The tenant has not paid the outstanding rent and has not applied for dispute resolution to dispute the notice and is therefore conclusively

presumed to have accepted that the tenancy ended on the effective date of the notice. Based on the above facts I find that the landlord is entitled to an order of possession.

As for the monetary order, I find that the landlord has established a claim for \$2685 in unpaid rent and lost revenue as well as \$75 for three late payment fees. I find that the landlord's agreement with the tenant regarding the sofa was a separate agreement that does not fall under the Residential Tenancy Act, and I therefore decline to consider this portion of the landlord's application.

As the landlord's application was mostly successful, I find she is entitled to recovery of the \$50 filing fee for the cost of her application.

### Conclusion

I grant the landlord an order of possession effective two days from service. The tenant must be served with the 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.

The landlord is entitled to \$2810. I order that the landlord retain the security deposit of \$450 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$2360. This order may be 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 17, 2012.

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Residential Tenancy Branch