



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPR, OPL, OPB, MNR, MNSD, FF

### Introduction

This hearing dealt with an application by the landlord for an order of possession for unpaid rent, breach and for landlord's use of property, a monetary order for unpaid rent, to keep all or part of the security deposit and recovery of the filing fee. Both parties participated in the conference call hearing.

### Issue(s) to be Decided

Is the landlord entitled to any of the above under the Act.

### Background and Evidence

This tenancy began September 2011 with an agreement between the parties whereby the tenants would work on the property in exchange for rent. The renovations to the property were to be completed by January 31, 2012 and the tenant's responsible for the \$1200.00 per month rent as of February 1, 2012.

On February 2, 2012 the landlord served the tenants with a 10 Day Notice to End Tenancy for Unpaid Rent; the tenants have not filed to dispute this notice.

The tenant testified at the start of the hearing that she had not received the notice of hearing documents which were sent by Canada Post, until March 22 and 23, 2012 respectively. The tenant stated that she sent evidence to the Residential Tenancy Branch this morning that she wished to rely on.

As service of the documents was late and the tenant acknowledges signing the tenancy agreement that states 'Free Rent Until February 1, 2012', this hearing will address the landlord's order of possession for unpaid rent and monetary order for unpaid rent only; the balance of the landlord's application is dismissed with leave to reapply.

The landlord stated that they had entered into the free rent for renovations agreement with the tenant's and that many of the renovations were completed as a joint effort between the parties. The landlord stated that the tenant's had attempted extend the free

rent agreement and that from the very beginning there had been problems with getting the work completed.

The landlord stated that the tenants have not paid the February or March 2012 rent and currently owe the landlords \$2400.00 in unpaid rent.

The tenant stated that the residence currently has no plumbing or floor and referred to the unsigned tenancy agreement addendum. It was clarified for the parties that as both were in possession or had knowledge of the signed tenancy agreement, the only matters being heard today were the landlords request for an order of possession and monetary order for unpaid rent. The tenant was advised that if there are issues related to this tenancy the tenant's are at liberty to make an application through this office for dispute resolution.

### Analysis

#### **10 Day Notice**

Based on the documentary evidence and testimony of the parties I find that the tenant was properly served with a notice to end tenancy for non-payment of rent. The tenant did not pay the outstanding rent within 5 days of receiving the notice and did not apply 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 and a monetary order for unpaid rent.

Accordingly I find that the landlord is entitled to a monetary order for \$2400.00.

As the landlord has been successful in their application the landlord is entitled to recovery of the \$50.00 filing fee.

The balance of the landlord's application is dismissed with leave to reapply.

### Conclusion

I hereby grant the landlord an **Order of Possession**, effective **2 days** after service of the Order upon the tenant(s). This Order must be served on the tenant(s) and may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

I find that the landlord has established a monetary claim for \$2400.00 in unpaid rent and late fees. The landlord is also entitled to recovery of the \$50.00 filing fee. I grant the landlord a monetary order under section 67 for the amount of **\$2450.00**.

If the amount is not paid by the tenant(s), the Order may be filed in the Provincial (Small Claims) Court of British Columbia 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: March 26, 2012

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Residential Tenancy Branch