



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNR, FF, MNR, OPR

### Introduction

This hearing dealt with cross applications. The landlord is seeking an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim. The tenant is seeking to set aside a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities. The landlord participated in the conference call hearing but the tenant(s) did not. The landlord presented evidence that the tenants were served with the application for dispute resolution and notice of hearing by registered mail on February 23, 2012. I found that the tenants had been properly served with notice of the landlord's claim and the date and time of the hearing and the hearing proceeded in their absence. The landlord gave affirmed testimony.

### Issues to be Decided

Is either party entitled to any of the above under the Act, the regulation or the tenancy agreement?

### Background and Evidence

The tenancy began on or about November 1, 2011. Rent in the amount of \$650.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$325.00. The tenant has failed to pay rent for every month that he has lived in the unit; \$650.00 X 5 months = \$3250.00. The landlord had a witness present when she personally served the tenant with a notice to end tenancy on February 9, 2012.

### Analysis

The tenant chose not to dial into the hearing to give testimony nor did he submit any documentary evidence to support his case, based on those facts I dismiss the tenant's application in its entirety without leave to reapply.

I accept the landlord's undisputed testimony and I find that the tenant was 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 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. 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.

As for the monetary order, I find that the landlord has established a claim for \$3250.00 in unpaid rent. The landlord is also entitled to recovery of the \$50.00 filing fee. I order that the landlord retain the \$325.00 deposit in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$2975.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

### Conclusion

The landlord is granted an order of possession and a monetary order for \$2975.00. The landlord may retain the security deposit.

The tenant's application is dismissed in its entirety without leave to reapply.

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 08, 2012.

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Residential Tenancy Branch