



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNR, OPR, FF, CNC

### 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 have the notice set aside. Both parties participated in the conference call hearing. Both parties gave affirmed evidence.

### Issues to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order for unpaid rent and loss of income?

Is the tenant entitled to have the notice set aside?

### Background and Evidence

The landlord gave the following testimony; The tenancy began on or about January 1, 2012. Rent in the amount of \$500.00 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 \$250.00. The tenant failed to pay rent in the month(s) of February and on February 22, 2012 the landlord served the tenant with a notice to end tenancy. The tenant further failed to pay rent in the month(s) of March.

The tenant gave the following testimony; the tenant stated that her rent is to be paid by “welfare” due to her personal circumstances, has made inquiries to “welfare” as to why payments have not been made and said “it’s gonna take some to get it sorted it out”

### Analysis

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 was unable to supply any documentation that would support her position 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 \$1000.00 in unpaid rent. The landlord is also entitled to recovery of the \$50.00 filing fee. I order that the landlord retain the \$250.00 deposit in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$800.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

The tenant has not been successful in her application.

### Conclusion

The landlord is granted an order of possession and a monetary order for \$800.00. 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 20, 2012.

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Residential Tenancy Branch