



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

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

### Introduction

This hearing dealt with an application by the landlord for an order of possession for unpaid rent, an order of possession for breach, a monetary order for unpaid rent, to keep all or part of the security deposit, other and recovery of the filing fee.

The landlord participated in the conference call hearing but the tenant did not. The landlord presented evidence that the tenant was served with the application for dispute resolution and notice of hearing. I found that the tenant 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.

### Issue(s) to be Decided

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

### Background and Evidence

This tenancy began October 1, 2010 with monthly rent of \$500.00 and the tenant paid a security deposit of \$250.00.

On May 26, 2012 the landlord served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent; the tenant has not filed to dispute this notice.

The landlord testified that the tenant has not paid all of the December 2011 rent and owes a balance of \$450.00 nor has the tenant paid the \$500.00 May or \$500.0 June 2012 rent. The landlord stated that the tenant has also been smoking in the rental unit which is a direct breach of the tenancy agreement as it clearly indicates no smoking. The landlord stated that the smoke from the tenant's rental is so bad that it has severely impacted the health of her children.

The landlord stated that as the tenant remains in the rental unit with the rent unpaid, the landlord is seeking an order of possession effective 2 days after service upon the tenant and a monetary order for the unpaid \$1450.00 rent.

### Analysis

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 \$1450.00.

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

### 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 \$1450.00 in unpaid rent. The landlord is also entitled to recovery of the \$50.00 filing fee. I order the landlord pursuant to s. 38(4) of the Act to keep the tenant's \$250.00 security deposit in partial satisfaction of the claim and I grant the landlord a monetary order under section 67 for the balance due of **\$1250.00**.

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: June 20, 2012

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Residential Tenancy Branch