



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes:**

OPR, MNR, MNSD, MNDC, FF

### **Introduction**

This hearing was convened in response to an application by the landlord pursuant to the *Residential Tenancy Act* (the Act) for Orders as follows:

1. An Order of Possession - Section 55;
2. A Monetary Order for unpaid rent / loss of revenue - Section 67;
3. An Order to retain the security deposit - Section 38
4. An Order to recover the filing fee for this application - Section 72.

I accept the landlord's evidence that despite the tenant having been personally served with the application for dispute resolution and notice of hearing in accordance with Section 89 of the Residential Tenancy Act (the Act) the tenant did not participate in the conference call hearing.

The landlord was given full opportunity to be heard, to present evidence and to make submissions.

### **Issue(s) to be Decided**

Is the notice to end tenancy valid?

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to the monetary amounts claimed?

### **Background and Evidence**

The tenancy began on June 01, 2012. Rent in the amount of \$1200.00 is payable in advance on the first day of each month. At the outset of the tenancy, the landlord collected a security deposit from the tenant in the amount of \$600.00. The tenant failed to pay all the payable rent in the month of August 2012 and on August 27, 2012 the landlord served the tenant with a notice to end tenancy for non-payment of rent. The

tenant did not satisfy all of the rent owing within 5 days of receiving the Notice to End. The tenant further failed to pay all rent for the month of September when due but paid several minor installments throughout September 2012. As of this date the tenant still owes \$550.00 for October 2012 rent. It must also be noted that on September 24, 2012 the parties signed a Mutual Agreement to End the Tenancy, with an effective date of October 31, 2012. The quantum of the landlord's monetary claim is for the unpaid rent and potential loss of revenue for November 2012. The landlord seeks an Order of Possession effective October 31, 2012.

### **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 and I find the notice to be valid. The tenant has not paid all 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 was ending. The parties since signed a Mutual Agreement to End on September 24, 2012 and each, on that date, were then on notice the tenancy was ending no sooner and no later than October 31, 2012.

Based on the above facts I find that the landlord is entitled to an **Order of Possession**.

I find that the landlord has established a monetary claim for **\$550.00** in unpaid rent. If necessary, the landlord is at liberty to apply for loss of revenue for November 2012. It must be noted that the landlord must have proof to support an application for loss. The landlord is further entitled to recovery of the \$50 filing fee, for a total entitlement of **\$600.00**. The security deposit will be off-set from the award made herein.

### ***Calculations***

Rental Arrears	\$550.00
<b>Monetary Order</b>	<b>\$0.00</b>

### **Conclusion**

**I grant an Order of Possession** to the landlord **effective October 31, 2012**. The tenant must be served with this 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.

**I Order** that the landlord may retain the security deposit in its entirety in full satisfaction of their monetary claim.

**This Decision is final and binding on the parties.**

*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: October 24, 2012

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