



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPC, MND, FF

### Introduction

This hearing dealt with the landlord's application for an Order of Possession for cause and a Monetary Order for damage to the rental unit or property. Both parties appeared or were represented at the hearing and were provided the opportunity to make relevant submissions, in writing and orally pursuant to the Rules of Procedure, and to respond to the submissions of the other party.

The landlord requested the application be amended to include loss of rent for the months of September and October 2012 since the tenant continues to occupy the rental unit. The tenant's agent did not object to the request for amendment. I accepted the amendment request and considered it accordingly.

### Issue(s) to be Decided

1. Is the landlord entitled to an Order of Possession?
2. Is the landlord entitled to a Monetary Order for damage to the unit or property?
3. Is the landlord entitled to a Monetary Order for loss of rent?

### Background and Evidence

The tenancy commenced in March 2010 and the tenant currently pays rent of \$335.00 on the 1<sup>st</sup> day of every month. The tenant did not pay a security deposit.

Since the tenancy commenced the tenant has caused five floods in the building with the most recent being on July 1, 2012. The landlord issued a 1 Month Notice to End Tenancy for Cause (the Notice) on July 3, 2012 and personally served it upon the tenant. The Notice has a stated effective date of August 31, 2012. The tenant did not file to dispute the Notice and continues to occupy the rental unit.

I heard that the tenant had previously requested an extension of one week, to which the landlord agreed, and the tenant paid \$80.00 for that week. When the tenant did not move out as agreed upon the landlord filed this Application.

The tenant's agent requested, on behalf of the tenant, that the tenant be provided more time to vacate. The landlord was agreeable to permitting the tenant to occupy the unit until October 31, 2012.

The landlord requested recovery of \$230.50 in additional labour costs it incurred since the latest flood occurred on a Statutory holiday. The landlord also requested loss of rent for the months of September 2012 and October 2012 in the amount of \$670.00, less \$80.00 already received from the tenant.

The tenant's agent indicated the tenant was in agreement with paying the landlord the amounts requested during this hearing.

### Analysis

Where a tenant received a 1 Month Notice to End Tenancy for Cause the tenant has 10 days to file an Application for Dispute Resolution to dispute the Notice. If the tenant does not file to dispute the Notice the tenant is conclusively presumed to have accepted the tenancy will end on the effective date and must vacate the rental unit by the date.

Since the tenant received a valid Notice and did not file to dispute the Notice, I find the tenancy has ended and the landlord is entitled to an Order of Possession. As the landlord was agreeable to an Order of Possession effective October 31, 2012 I provide such to the landlord with this decision. The Order of Possession must be served upon the tenant and may be enforced in The Supreme Court of British Columbia as an Order of that court if necessary.

Based upon the undisputed monetary claims I award the amount requested by the landlord during the hearing. I further award the filing fee to the landlord. Accordingly, the landlord is provided with a Monetary Order calculated as follows:

Compensation for damage to rental unit or property	\$ 230.50
Loss of rent for September and October 2012	590.00
Filing fee	<u>50.00</u>
Monetary Order	\$ 870.50

The Monetary Order must be served upon the tenant and may be enforced in Provincial Court (Small Claims) if necessary.

Conclusion

The landlord has been provided an Order of Possession effective October 31, 2012 to serve upon the tenant. The landlord has been provided a Monetary Order in the amount of \$870.50 to serve upon the tenant.

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 17, 2012.

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Residential Tenancy Branch