



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR and FF

### Introduction

This application was brought by the landlord on September 18, 2012 seeking an Order of Possession pursuant to a 10-day Notice to End Tenancy for unpaid rent served by posting on the tenant's door on August 23, 2012. The landlord also sought a Monetary Order for unpaid rent and recovery of the filing fee for this proceeding.

Despite having been served with the Notice of Hearing served in person on September 19, 2012, the tenant did not call in to the number provided to enable his participation in the telephone conference call hearing. Therefore, it proceeded in his absence.

### Issue(s) to be Decided

This application requires a decision on whether the landlord is entitled to an Order of Possession and a monetary award as requested.

### Background and Evidence

This tenancy began on May 28, 2012. Rent is \$975 per month and the landlord holds a security deposit of \$487.50 paid on May 27, 2012.

During the hearing, the landlord gave evidence that the Notice to End Tenancy was served after the tenant had failed to pay the rent for July and August 2012. In the interim, the tenant also failed to pay the rent due on September 1, 2012, but later in the month made a payment of \$2,700, leaving a current arrears of \$200.

The landlord stated that as the tenant is now working at a new job, and in view of his efforts to bring his account up-to-date she has waived the claim for late fees and NSF fees.

However, in the event the tenant is not able to pay the arrears in the near future, the landlord requested an Order of Possession and a Monetary Order.

### Analysis

Section 26 of the *Act* provides that tenants must pay rent when it is due.

Section 46 of the *Act* provides that a landlord may issue a Notice to End Tenancy for unpaid rent on a day after the rent is due. The tenant may cancel the notice by paying the overdue rent or make application to dispute the notice within five days of receiving it.

In this instance, I find that the tenant did not pay the rent within five days of receiving the notice and did not make application to dispute it.

Therefore, under section 46(5) of the *Act*, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice to End Tenancy which was September 5, 2012 taking into account the three days deemed service of notice served by posting.

Accordingly, I find that the landlord is entitled to an Order of Possession to take effect two days from service of it on the tenant.

I further find that the landlord is entitled to a Monetary Order for the outstanding rent of \$200 and the \$50 filing fee for this proceeding, a total of \$250.

### Conclusion

The landlord's copy of this decision is accompanied by an Order of Possession, enforceable through the Supreme Court of British Columbia, to take effect two days from service of it on the tenant.

The landlord's copy of this decision is also accompanied by a Monetary Order for **\$250**, enforceable through the Provincial Court of British Columbia, for service on the tenant.

The landlord remains at liberty to make a further application for any damages as may be ascertained at the conclusion of the tenancy.

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 22, 2012.

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Residential Tenancy Branch