



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: OPR, MNR, MNDC, FF

### Introduction

This hearing was scheduled in response to the landlord's application for an order of possession / a monetary order as compensation for unpaid rent / compensation for damage or loss under the Act, Regulation or tenancy agreement / and recovery of the filing fee. Both parties participated in the hearing and gave affirmed testimony.

### Issue(s) to be Decided

Whether the landlord is entitled to any of the above under the Act, Regulation or tenancy agreement.

### Background and Evidence

Pursuant to a written tenancy agreement, the month-to-month tenancy began on September 15, 2011. Monthly "market" rent is \$1,080.00; the tenant's portion of monthly rent is \$504.00, and it is due and payable in advance on the first day of each month. A security deposit of \$540.00 was collected.

Arising from rent which was unpaid in the amount of \$504.00 when due on October 1, 2012, the landlord issued a 10 day notice to end tenancy for unpaid rent dated October 2, 2012. The notice was served in-person at the front door of the unit on that same date. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenant must vacate the unit is October 12, 2012. Subsequently, on October 17, 2012 the landlord received payment from the tenant in the amount of \$529.00, which was comprised of overdue rent for October of \$504.00, in addition to a \$25.00 fee assessed for late payment of rent. This payment was made by way of money order dated October 15, 2012. A receipt was issued by the landlord in exchange for this payment which included the notation: "for use & occupancy only for Oct. 1 to 31, 2012."

As for November, while another 10 day notice to end tenancy for unpaid rent was issued, and payment of overdue rent was thereafter made, the landlord seeks an order

of possession on the basis of late payment of rent for October, by way of the application for dispute resolution which was filed on October 18, 2012.

### Analysis

Based on the documentary evidence and testimony, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent dated October 2, 2012. The tenant did not pay the outstanding rent within 5 days of receiving the notice and did not apply to dispute the notice. The tenant is therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the notice. Accordingly, I find that the landlord has established entitlement to an order of possession.

As for the monetary order, during the hearing the landlord confirmed that there is presently no rent outstanding. The application for a monetary order as compensation for unpaid rent is therefore withdrawn.

However, as the landlord succeeded in obtaining an order of possession, I find that the landlord has established entitlement to recovery of the \$50.00 filing fee. I hereby order that this amount may be withheld by the landlord from the tenant's security deposit.

### Conclusion

I hereby issue an order of possession in favour of the landlord effective **1:00 p.m., Friday, November 30, 2012**. This order must be served on the tenant. 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.

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: November 19, 2012.

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Residential Tenancy Branch