



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** OPR, MNR, 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 recover the filing fee for this application - Section 72.

I accept the landlord's evidence that despite the tenant having been served with the application for dispute resolution and notice of hearing by registered mail 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. The tenant still resides in the rental unit.

### **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 January 15, 2012. Rent in the subsidized amount of \$300.00 is payable in advance on the first day of each month. The tenant failed to pay all rent for August 2012 and did not pay the rent for September 2012. On September 06, 2012 the landlord served the tenant with a notice to end tenancy for non-payment of rent by posting it on their door – deemed received September 09, 2012. The tenant did not pay the rent arrears inside the month of September 2012. On October 12, 2012 the tenant paid the arrears up to the end of September 2012 in the amount of \$425.00, which the landlord accepted for 'use and occupancy only' – stated on the receipt, and orally provided to the tenant that they must vacate. The tenant failed to pay all rent for October 2012 – paying only \$200.00 on October 19, 2012. The tenant further failed to pay any rent for November 2012. The quantum of the landlord's monetary claim is for unpaid rent for October and November 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 did not pay the outstanding rent within the five days permitted to do so and the landlord did not re-instate the tenancy. The tenant has not applied 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 – September 19, 2012. As a result, I find that the landlord is entitled to an **Order of Possession**.

I also find that the landlord has established a monetary claim for **\$400.00** in unpaid rent. The landlord is entitled to recover the \$50 filing fee, for a total entitlement of **\$450.00**. The landlord elected to retain the security deposit which now must be administered at the end of the tenancy in accordance with Section 38 of the Act.

***Calculation for Monetary Order***

Rental Arrears for October 2012	\$100.00
Filing Fees for the cost of this application	50.00
<b>Total Monetary Award</b>	<b>\$450.00</b>

**Conclusion**

**I grant** an Order of Possession to the landlord **effective 2 days from the day** it is served on the tenant. 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 grant** the landlord an Order under Section 67 of the Act for the amount of **\$450.00**. If necessary, this Order may be filed in the Small Claims Court and enforced as an Order of that Court.

**This Decision is final and binding on both 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: November 22, 2012

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Residential Tenancy Branch