



# 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 scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has requested an Order of Possession for Unpaid Rent, a monetary Order for unpaid rent and to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained, evidence was reviewed and the parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to submit documentary evidence prior to this hearing; a copy of two 10 Day Notices to end Tenancy was submitted. The parties were able to present affirmed oral testimony and to make submissions during the hearing.

### Preliminary Matters

The application was amended to include a claim for unpaid November, 2012 rent in the sum of \$300.00.

### Issue(s) to be Decided

Is the landlord entitled to an Order of possession for unpaid rent in the sum of \$600.00?

Is the landlord entitled to a monetary Order in the sum of \$600.00?

Is the landlord entitled to filing fee costs?

### Background and Evidence

The tenancy commenced 6.5 years ago; the current landlord became responsible for the property in June 2012.

Rent is \$800.00 per month, due on the first day of each month.

The parties agreed that \$500.00 of rent owed each month is sent to the landlord by a government agency, via direct deposit. The tenant makes an additional payment directly to the landlord each month, in the sum of \$300.00.

The tenant confirmed receipt of a Ten Day Notice to End Tenancy for Unpaid Rent that was issued on November 3, 2012. The Notice had an effective date of November 13, 2012. The tenant acknowledged she received the Notice on November 3, 2012.

The November 3, 2012 Notice was the 2<sup>nd</sup> issued. The 1<sup>st</sup> Notice was given to the tenant in October, as she had not paid \$300.00 rent owed for that month.

The November 3, 2012 Notice indicated that the Notice would be automatically cancelled if the landlord received \$300.00 within five days after the tenant was assumed to have received the Notice. The Notice also indicated that the tenant was presumed to have accepted that the tenancy was ending and that the tenant must move out of the rental by the date set out in the Notice unless the tenant filed an Application for Dispute Resolution within five days.

The tenant confirmed she has not yet paid \$600.00 that is due for the balance of October and November, 2012 rent and that she did not dispute either of the Notices.

### Analysis

I find that the tenant was served with a Notice to End Tenancy that required the tenant to vacate the rental unit on November 13, 2012, pursuant to section 46 of the Act. The tenant confirmed receipt of the Notice on November 3, 2012.

Section 46 of the Act stipulates that a tenant has five (5) days from the date of receiving the Notice to End Tenancy to either pay the outstanding rent or to file an Application for Dispute Resolution to dispute the Notice. The tenant has confirmed that she has not yet paid \$300.00 owed for each of October and November, 2012 rent.

Therefore, pursuant to section 46(5) of the Act, I find that the tenant accepted that the tenancy has ended. On this basis I will grant the landlord an Order of Possession that is effective two days after the order is served.

In the absence of evidence to the contrary, I find that the tenant has not paid the balance of rent in the amount of \$600.00 owed for October and November, 2012, and that the landlord is entitled to compensation in that amount.

I find that the landlord's application has merit and that the landlord is entitled to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

Based on these determinations I grant the landlord a monetary Order for \$650.00. In the event that the tenant does not comply with this Order, it may be served on the

tenant, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

The landlord has been granted an Order of possession that is effective **two days after it is served upon the tenant**. This Order may be served on the tenant, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

### Conclusion

The landlord has been granted an Order of Possession.

The landlord has been granted a monetary Order in the sum of \$650.00.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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 28, 2012.

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Residential Tenancy Branch