



# 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, all of which has been reviewed, to present affirmed oral testimony and to make submissions during the hearing. I have considered all of the evidence and testimony provided.

### Preliminary Matters

The tenant confirmed her full, legal name; the application was amended to reflect the tenant's legal name.

The application did not include a request for unpaid December, 2012 rent; the landlord is at liberty to submit a claim for any loss of December 2012 rent.

### Issue(s) to be Decided

Is the landlord entitled to an Order of possession for unpaid rent?

Is the landlord entitled to a monetary Order for rent owed from September 2012 to November 2012 in the sum of \$1,986.00?

Is the landlord entitled to filing fee costs?

### Background and Evidence

The tenancy commenced on August 15, 2012. Rent is \$662.00 per month, due on the first day of each month. A deposit was to be paid, but the landlord did not receive a deposit. A copy of the signed tenancy agreement was supplied as evidence.

The tenant confirmed that she has not paid any rent from September, 2012, onward.

The tenant confirmed receipt of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on October 12, 2012. The landlord's maintenance person provided affirmed testimony that on October 12, 2012, with a witness present, he posted the Notice to the tenant's door.

The Notice indicated that the Notice would be automatically cancelled if the landlord received \$1,324.00 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 on October 19, 2012 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 that she did not dispute the Notice.

### Analysis

Based on the acknowledgment of the tenant, I find that the tenant was served with a Notice to End Tenancy on October 12, 2012. The Notice required the tenant to vacate the rental unit on October 19, 2012, pursuant to section 46 of the Act.

Section 53 of the Act allows the effective date of a Notice to be changed to the earliest date upon which the Notice complies with the Act; therefore, I find that the Notice effective date is changed to October 22, 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. In the circumstances before me I have no evidence that the tenant exercised either of these rights; therefore, pursuant to section 46(5) of the Act, I find that the tenant accepted that the tenancy has ended effective October 22, 2012. On this basis I will grant the landlord an Order of Possession that is effective two days after the order is served to the tenant.

In the absence of evidence to the contrary, I find that the tenant has not paid rent in the amount of \$1,986.00 from September to November, 2012, inclusive 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 \$50.00 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 \$2,036.00. 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 and a monetary order.

The landlord is entitled to filing fee costs.

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: December 10, 2012.

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Residential Tenancy Branch