



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes: OPR, MNR, MNSD, FF

### Introduction

This hearing concerns the landlord's application for an order of possession / a monetary order as compensation for unpaid rent / retention of the security deposit / and recovery of the filing fee. The landlord's agent attended and gave affirmed testimony. Despite service of the application for dispute resolution and notice of hearing (the "hearing package") by way of registered mail, the tenant did not appear. Evidence submitted by the landlord includes the Canada Post tracking number for the registered mail.

### 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 tenancy began on April 1, 2012. Monthly rent of \$750.00 is due and payable in advance on the first day of each month, and a security deposit of \$375.00 was collected.

Arising from rent which remained unpaid when due on December 1, 2012, the landlord issued a 10 day notice to end tenancy for unpaid rent dated December 5, 2012. The notice was served by way of posting on the tenant's door on that same date. Pursuant to section 90 of the Act which speaks to **When documents are considered to have been received**, the 10 day notice is deemed to have been received 3 days later on December 8, 2012. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenant must vacate the unit is December 18, 2012. Subsequently, on December 22 the tenant paid the full amount of rent due for December 2012. Rent for January 2013 was paid in full on January 19 and no rent has been paid for February 2013. Presently, the tenant continues to reside in the unit.

### Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: [www.rto.gov.bc.ca](http://www.rto.gov.bc.ca)

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord's agent, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent dated December 5, 2012. The tenant did not pay the outstanding rent within 5 days of receiving the notice on December 8, 2012, 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, I find that the landlord has established a claim of **\$875.00**, which is comprised as follows:

- \$25.00: *fee assessed for late payment of rent for December 2012*
- \$25.00: *fee assessed for late payment of rent for January 2013*
- \$750.00: *unpaid rent for February 2013*
- \$25.00: *fee assessed for late payment of rent for February 2013*
- \$50.00: *filing fee*

In the absence of documentary evidence supporting the assessment of additional fees for late payment of rent (particular months at issue, for example), that aspect of the landlord's application is hereby dismissed.

I order that the landlord retain the security deposit of **\$375.00**, and I grant the landlord a **monetary order** under section 67 of the Act for the balance owed of **\$500.00** (\$875.00 - \$375.00).

### Conclusion

I hereby issue an **order of possession** in favour of the landlord effective **two (2) days** after service on the tenant. 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.

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **\$500.00**. Should it be necessary, this order may be served on the tenant, filed in the Small Claims Court 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: February 13, 2013

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Residential Tenancy Branch

