



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, MNDC, MNSD, FF

### Introduction

This is an application filed by the Landlord for an order of possession and a monetary order for unpaid rent or utilities, for money owed or compensation for damage or loss, to keep all or part of the security deposit and recovery of the filing fee.

Both parties attended the hearing by conference call and gave testimony. The Tenant did not submit any documentary evidence. Both parties have confirmed receipt of the notice of hearing package and the Landlord's submitted documentary evidence.

The Tenant clarified at the beginning of the hearing that she operates Dove Street Ministries at the rental address in providing shelter for homeless persons.

At the end of the hearing, the Tenant provided an alternate mailing address as she has now vacated the rental unit. The RTB file shall be amended to reflect the new mailing address.

### Issue(s) to be Decided

Is the Landlord entitled to an order of possession?

Is the Landlord entitled to a monetary order?

Is the Landlord entitled to retain the security deposit?

### Background and Evidence

This is a Tenancy which began on July 13, 2013 on a month to month basis as shown by the submitted copy of a signed tenancy agreement. The monthly rent is \$2,400.00 and the Tenant agrees to pay 75% of all utility bills including Gas, Hydro & Water until they occupy the premises.

The Landlord seeks an order of possession and a monetary order due to unpaid rent of \$9,000.00. This consists of unpaid rent for September, October and November totalling, \$7,200.00 @ \$2,400.00 per month for 3 months and \$1,800.00 for utilities @ \$600.00 per month for 3 months.

The Landlord states that a 10 day notice to end tenancy dated September 9, 2013 was served upon the Tenant by posting it to the rental unit door with a witness which states that on September 1, 2013 \$2,400.00 in rent was not paid. The notice shows an effective vacancy date of September 23, 2013. The notice also shows that \$600.00 in utilities were not paid that was due after receiving written demand on September 1, 2013. The Tenant admitted in her direct testimony that no rent was paid and that the Landlord served her with a 10 day notice to end tenancy issued for unpaid rent. The Tenant also states that she runs Dove Street Ministries and that she vacated the rental unit in September 2013 after providing notice to the Landlord. The Tenant states that two of her former clients who participated in her recovery programs have chained the doors closed and refuse to leave. Both parties have confirmed in their direct testimony that no rent has been paid since the 10 day notice dated September 23, 2013 was served upon the Tenant and that the Landlord does not have possession of the rental.

### Analysis

I accept the undisputed testimony of both parties and find that the Landlord has established a claim for an order of possession for unpaid rent. The Tenant has confirmed in her direct testimony that no rent was paid and has since vacated the rental unit, but that two of her clients have chained the doors closed and refused to vacate. The Landlord has established a claim for an order of possession. The order must be served upon the Tenant. Should the Tenant fail to comply the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

As for the monetary order, I find based upon the undisputed testimony of both parties that no rent has been paid for September since the 10 day notice to end tenancy was issued on September 23, 2013 and that the Tenant/Occupants still occupy the rental unit as of the date of this hearing. I find that the Landlord has established a monetary claim for \$9,000.00 in combined unpaid rent and utilities. The Landlord is also entitled to recovery of the \$100.00 filing fee. The Landlord is granted a monetary order for \$9,100.00.

As for the Landlord's claim to offset the security deposit against the monetary claim, I find that the Landlord has failed to provide sufficient evidence to satisfy me. The

Landlord claims that the security deposit paid was \$875.00. The Tenant disputes this stating that a security deposit of \$1,250.00 was paid. There is no notation of a security deposit on the signed tenancy agreement. Neither party has submitted any documentary details about the security deposit. The Landlord has failed to provide sufficient evidence to satisfy me of this claim and as such the request to retain the security deposit is dismissed with leave to reapply as the Tenancy has not yet ended.

### Conclusion

The Landlord is granted an order of possession.

The Landlord is granted a monetary order for \$9,100.00.

The Landlord's Application to retain the security deposit is dismissed with leave to reapply.

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 14, 2013

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Residential Tenancy Branch

