



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, MNDC, FF, CNR, RR, O

### Introduction

There are applications filed by both parties. The Landlord seeks an order of possession and a monetary order for unpaid rent, for money owed or compensation for damage or loss and recovery of the filing fee. The Tenant seeks an order to cancel the notice to end tenancy issued for unpaid rent, an order to be allowed to reduce rent for repairs, services or facilities not provided and an order for the Landlord to comply with the Act.

The Landlord attended the hearing by conference call and gave undisputed testimony. The Landlord states that he served the Tenant with the notice of hearing package and the submitted documentary evidence in person on October 10, 2013 with a witness, O.P.(caretaker). The Landlord also confirmed that he received the Tenant's Application for Dispute Resolution/Notice of a Dispute Resolution. I find based upon the undisputed testimony of the Landlord that both parties have been properly served with the notice of hearing package and the submitted documentary evidence of the other party.

At 10 minutes past the start of the hearing time, the Tenant's Application was dismissed without leave to reapply as the Tenant has not attended and the Landlord has in response.

### Issue(s) to be Decided

Is the Landlord entitled to an order of possession?

Is the Landlord entitled to a monetary order?

### Background and Evidence

This Tenancy began on July 1, 2013 on a month to month basis as shown by the submitted copy of the signed tenancy agreement. The monthly rent is \$800.00 payable on the 1<sup>st</sup> of each month and a security deposit of \$400.00 was paid.

The Landlord states that the Tenant was served with a 10 day notice to end tenancy issued for unpaid rent dated October 4, 2013. The notice states that rent of \$800.00 was due on October 1, 2013 which was not paid. The notice also shows an effective vacancy date of October 14, 2013. The Landlord states that no rent was paid within the allowed time frame. The Tenant filed an application on October 7, 2013 to dispute the notice. The Landlord states that the Tenant later paid the outstanding October 2013 rent of \$800.00 for which a receipt was issued for use and occupancy only. The Tenant has submitted a copy of this receipt in his evidence package confirming the Landlord's statement. The Landlord has withdrawn his request for a monetary order for unpaid rent as the rent is now current.

The Landlord seeks an order of possession to end the tenancy and a monetary order for recovery of the \$50.00 filing fee.

### Analysis

I accept the undisputed evidence of the Landlord and find that the Tenant was served with a 10 day notice to end tenancy issued for unpaid rent on October 4, 2013. The Tenant failed to pay the rent within the allowed time frame and is conclusively presumed to have accepted that the Tenancy is at an end. The Landlord did accept the rent payment late, but with notice to the Tenant that it was for use and occupancy only and was thus still seeking an end to the tenancy. The Landlord is granted an order of possession. The Tenant must be served with the order of possession. Should the Tenant fail to comply with the order, the order may be filed with the Supreme Court of British Columbia and enforced as an order of that Court.

I also find that the Landlord having been successful is entitled to recovery of the \$50.00 filing fee. I grant the Landlord a monetary order under section 67 for \$50.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

Conclusion

The Tenant's Application is dismissed without leave to reapply.

The Landlord is granted an order of possession.

The Landlord is granted a monetary order for \$50.00.

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 15, 2013

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Residential Tenancy Branch

