



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Bristol Estates  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR MNR MNSD FF

### Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order to retain the security and pet deposits in partial satisfaction of the claim.

Two agents of the landlord participated in the teleconference hearing, but the tenant did not call into the hearing. The landlord stated that they personally served the tenant with the application for dispute resolution and notice of hearing on October 16, 2013. I accepted the landlord's evidence regarding service of notice of the hearing, and proceeded with the hearing in the tenant's absence.

### 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

The tenancy began on April 1, 2011. Rent in the amount of \$1100 is payable in advance on the first day of each month. The landlord collected a security deposit from the tenant in the amount of \$550, and a pet deposit of \$550. The tenant failed to pay rent in the month of October 2013 and on October 2, 2013 the landlord served the tenant with a notice to end tenancy for non-payment of rent. The tenant paid the landlord \$1175 on October 25, 2013 but failed to pay rent in the month of November 2013. In their application, the landlord claimed \$1100 for October 2013, \$1100 for November 2013, two late payment fees of \$25 each and recovery of the \$50 filing fee for the cost of the application, for a total of \$2300.

### Analysis

Based on the landlord's testimony I find that the tenant was served with a notice to end tenancy for non-payment of rent. The tenant did not pay the outstanding rent within five days of being served with the notice, and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice. Based on the above facts I find that the landlord is entitled to an order of possession.

As for the monetary order, I find as follows. The tenant paid the landlord \$1175 on October 25, 2013. Therefore, the tenant paid the outstanding rent and late fee of \$1125, and he had a credit of \$50. After applying the tenant's \$50 credit, the landlord is entitled to lost revenue of \$1050 for November 2013. This amount is not rent, as the tenancy ended on the effective date of the notice to end tenancy. Therefore, the landlord may not claim a late fee for lost revenue, and I dismiss that portion of the landlord's claim.

As the landlord's claim was mostly successful, I find they are entitled to recovery of the \$50 filing fee for the cost of their application.

### Conclusion

I grant the landlord an order of possession effective two days from service. The tenant must be served with the order of possession. 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.

The landlord is entitled to \$1100. I order that the landlord retain the security and pet deposits of \$1100 in full satisfaction of this amount.

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 22, 2013

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Residential Tenancy Branch

