



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: OPR, MNR, MNDC, FF

### Introduction

This hearing concerns the landlord's application for an order of possession / a monetary order as compensation for unpaid rent / compensation for damage or loss under the Act, Regulation or tenancy agreement / and recovery of the filing fee. The landlord attended and gave affirmed testimony.

The landlord testified that he served the application for dispute resolution and notice of hearing (the "hearing package") on the tenant by way of Xpresspost. Evidence provided by the landlord includes the Canada Post tracking number for the Xpresspost, and the Canada Post website informs that the item was "successfully delivered." Despite this, the tenant did not appear.

### 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, only page 1 of which has been submitted in evidence, the tenancy began March 11, 2012. Monthly rent of \$950.00 is due and payable in advance on the first day of each month, and a security deposit of \$475.00 was collected.

Arising from rent which remained unpaid when due on October 1, 2013, the landlord issued a 10 day notice to end tenancy for unpaid rent dated October 28, 2013. The notice was served by way of posting on the unit door on that same date. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenant must vacate the unit is November 18, 2013. Subsequently, the tenant has made no further payment toward rent and he continues to reside in the unit.

### Analysis

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent dated October 28, 2013. The tenant did not pay the outstanding rent within 5 days of receiving the notice, 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 compensation, I find that the landlord has established a claim of **\$2,900.00**:

\$950.00: *unpaid rent October*  
\$950.00: *unpaid rent November*  
\$950.00: *unpaid rent December*  
\$50.00: *filing fee*

Section 72 of the Act addresses **Director's orders: fees and monetary orders**, in part as follows:

72(2) If the director orders a party to a dispute resolution proceeding to pay any amount to the other, including an amount under subsection (1), the amount may be deducted

(b) in the case of payment from a tenant to a landlord, from any security deposit or pet damage deposit due to the tenant.

Following from all the above, I order that the landlord retain the security deposit of **\$475.00**, and I grant the landlord a **monetary order** under section 67 of the Act for the balance owed of **\$2,425.00** (\$2,900.00 - \$475.00).

### Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **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 **\$2,425.00**. 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: December 18, 2013

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Residential Tenancy Branch

