



# 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 is an application filed by the Landlord for 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.

Both parties attended the hearing by conference call and gave testimony. As such, I am satisfied that both parties have been properly served with the notice of hearing package. The Landlord states that evidence was submitted to both the Residential Tenancy Branch and the Tenant. The RTB file shows no indication of any documentary evidence being submitted other than a 1 page "reproduced" 10 day notice to end tenancy issued for unpaid rent dated December 22, 2013. The Landlord stated that this was an error as he did not retain a copy of the notice and forgot the details. The Tenant has submitted a copy of a 10 day notice to end tenancy issued for unpaid rent dated December 17, 2013. The Landlord confirmed in his direct testimony that this notice was accurate. The Tenant stated that she did not receive any other documents from the Landlord. As such, I find that the Landlord has failed to provide documentary evidence in support of his application and that the hearing shall proceed based upon the submitted copy of the 10 day notice dated December 17, 2013 provided by the Tenant.

### 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

Both parties confirmed that there was a signed tenancy agreement, but that neither party has submitted a copy or provided any details of it. Both parties confirm that the current monthly rent is \$1,300.00 per month payable on the 1<sup>st</sup> of each month.

The Landlord seeks an order of possession and a monetary order for \$4,900.00 for unpaid rent. The Landlord states that the Tenant has failed to pay rent of \$1,000.00 for October, \$1,300.00 for November, \$1,300.00 for December and \$1,300.00 for January. The Tenant states that a payment of \$700.00 was made in November and that no other rent payments have been made since. The Landlord states that the rent payment of \$700.00 was applied to rent owing from September and October. The Tenant disputes that any rent arrears were owing for September and October, but confirms that no rent has been paid since the 10 day notice was served on December 17, 2013.

### Analysis

I prefer the evidence of the Landlord over that of the Tenant and I accept the evidence that the Tenant was properly served with the 10 day notice to end tenancy issued for unpaid rent by posting it to the rental unit door on December 17, 2013. Both parties have confirmed that \$700.00 was paid to the Landlord in November. I find that the Landlord has failed to provide sufficient evidence to satisfy me that there was any rent arrears for October much less September as disputed by the Tenant. However, the Tenant has admitted to failing to pay all of the rent owed for November upon receiving the 10 day notice. As such, I find that the Landlord has established grounds for an order of possession. The Tenant failed to pay all of the rent owed or file an application for dispute resolution to dispute the notice. The Tenants are conclusively presumed to have accepted that the Tenancy was at an end. The Landlord is granted an order of possession. The Tenants must be served with the order of possession. Should the Tenants fail to comply, this order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

As for the monetary claim, I find that the Landlord has failed to provide sufficient evidence to satisfy me of the claim of arrears for October (\$1,000.00) and November (\$1,300.00). The Landlord's details were at times incomplete and contradictory. On this basis without any supporting evidence from the Landlord, these portions of the Landlord's claims are dismissed. I find based upon the undisputed testimony of the Tenant that rent for December and January have not been paid and that the Tenant is still in occupation of the rental unit. The Landlord has established grounds for unpaid rent of \$2,600.00 for December and January. The Landlord is also entitled to recovery of the \$50.00 filing fee. I grant a monetary order for \$2,650.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

### Conclusion

The Landlord is granted an order of possession and a monetary order for \$2,650.00.

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: January 16, 2014

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Residential Tenancy Branch

