



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **AMENDED DECISION**

Dispute Codes      OPR, MNR

### Introduction

This hearing dealt with an application by the landlord for an order of possession and a monetary order. The landlord had applied to have this matter dealt with by way of the Direct Request Process however after reviewing the application it was deemed necessary to have a participatory hearing. Both parties participated in the conference call hearing. Both parties gave affirmed evidence.

### Issues to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order for unpaid rent and loss of income?

### Background and Evidence

The landlord gave the following testimony:

The tenancy began on or about October 15, 2012. Rent in the amount of \$980.00 is payable in advance on the fifteenth day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$500.00. The tenant failed to pay rent in the month(s) of June 2013 – November 2013 and on November 16, 2013 the landlord served the tenant with a notice to end tenancy. The tenant further failed to pay rent in the month(s) of December 2013. The landlord advised that as of today's hearing the tenant owes him \$6860.00 in unpaid rent.

The tenant gave the following testimony:

The tenant acknowledged the unpaid rent but stated that he had an agreement with the landlord to that he would renovate the suite in lieu of rent for one year, that agreement was to be from June 2013 to July 2014.

### Analysis

The landlord provided documentary evidence to support his claim. The tenant did not provide any documentation for this hearing. It was explained in great detail to the tenant that he was at liberty to file his own application to address any unresolved issues between the parties and that this decision would only deal with the application before me. The tenant stated that he understood.

I accept the landlord's testimony and 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 5 days of receiving the notice and did not apply for dispute resolution to dispute 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. 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.

As for the monetary order, I find that the landlord has established a claim for \$6860.00 in unpaid rent. ~~I grant the landlord an order under section 67 for the balance due of \$6860.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.~~

Although the landlord's application does not seek to retain the deposit, using the offsetting provisions of section 72 of the Act, I allow the landlord to retain the tenant's \$500.00 security deposit in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$6360.00. 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 ~~\$6860.00~~ \$6360.00.

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*.