



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, MDSD & FF

### Introduction

The tenant failed to appear at the scheduled start for the hearing. The Landlord was present and ready to proceed. The telephone conference call was monitored for the next 10 minutes and the tenant still failed to attend. A hearing was conducted by in the presence of the landlord and in the absence of the tenant although duly served. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

I find that the 10 day Notice to End Tenancy dated August 21, 2014 was personally served on the Tenant on August 21, 2014. I find that the 10 day Notice to End Tenancy dated September 3, 2014 was sufficient served on the tenant by posting. Further I find that the Application for Dispute Resolution/Notice of Hearing filed by the landlord was sufficiently served on the Tenant as the tenant has acknowledged service of the documents to the landlord. With respect to each of the applicant's claims I find as follows:

### Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the tenant is entitled to an order cancelling the 10 day Notice to End Tenancy?
- b. Whether the tenant is entitled to a Tenant's Order for Possession?
- c. Whether the landlord is entitled to an Order for Possession?
- d. Whether the landlord is entitled to A Monetary Order and if so how much?
- e. Whether the landlord is entitled to retain all or a portion of the security deposit/pet deposit?

- f. Whether the landlord is entitled to recover the cost of the filing fee?

### Background and Evidence

The parties entered into a written tenancy agreement that provided that the tenancy would start on July 1, 2014 and end on November 30, 2014. The rent is \$500 per month payable on the first day of each month. The tenant paid a security deposit of \$250 on June 17, 2014. The tenant(s) failed to pay the rent for the months of August, September and October and the sum of \$1650 remains owing. The tenant(s) have remained in the rental unit.

### Tenant's Application:

The tenant failed to attend the hearing and failed to present sufficient evidence to obtain an order cancelling the 10 day Notice to End Tenancy. As a result I ordered that the tenant's application to cancel the 10 day Notice to End Tenancy and for a tenant's Order for Possession be dismissed without liberty to re-apply.

### Analysis - Order of Possession:

I determined the landlord was entitled to an Order for Possession. There is outstanding rent. The Tenant's application to set aside the Notice to End Tenancy has been dismissed. In such situations the Residential Tenancy Act provides the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and must vacate the rental unit by that date. **Accordingly, I granted the landlord an Order for Possession on 2 days notice.**

The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court of British Columbia for enforcement.

### Analysis - Monetary Order and Cost of Filing fee

I determined the tenant has failed to pay the rent for the month(s) of August, September and October and the sum of \$1650 remains owing. I determined the landlord has given

sufficient notice of their intention to claim for all of last month as provided in the Application for Dispute Resolution. **I granted the landlord a monetary order in the sum of \$1650 plus the sum of \$50 in respect of the filing fee for a total of \$1700.**

Security Deposit

I determined the security deposit plus interest totals the sum of \$250. **I ordered the landlord may retain this sum thus reducing the amount outstanding under this monetary order to the sum of \$1450.**

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial 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: October 20, 2014

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Residential Tenancy Branch

