



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes            OPR, MNR, MDSD & FF

### Introduction

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the 10 day Notice to End Tenancy was sufficiently served on the Tenant by placing it in the mailbox on November 6, 2014. Further I find that the Application for Dispute Resolution/Notice of Hearing was sufficiently served on the Tenant by mailing, by registered mail to where the tenant resides on November 27, 2014. 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 landlord is entitled to an Order for Possession?
- b. Whether the landlord is entitled to A Monetary Order and if so how much?
- c. Whether the landlord is entitled to retain all or a portion of the security deposit/pet deposit?
- d. 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 June 1, 2013. The present rent is subsidized and the tenant pays \$576 per month in

advance on the first day of each month. The tenants paid a security deposit of \$482.50 at the start of the tenancy.

The tenant(s) failed to pay the rent for the months of November and the sum of \$180.77 remains owing. In addition the tenant owes \$35 for a rent increase for the months of May to September. The total rent owing is \$215.77.

The tenant(s) continues to live in the rental unit. The rent for December has been paid. In addition the landlord has received the rent for January 31, 2015 which she will be accepting for "use and occupation only."

Analysis - Order of Possession:

I determined the landlord was entitled to an Order for Possession. There is outstanding rent. The Tenant(s) have not made an application to set aside the Notice to End Tenancy and the time to do so has expired. 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.

The tenant testified the reason for arrears is the failure of the Ministry to take care of the payments in a timely manner. An arbitrator does not have the jurisdiction to grant an extension of time to pay the rent. At the hearing the landlord stated she was not prepared to reinstate the tenancy. The tenant or her agents will have to negotiate with the landlord to see what if anything it would take to have the landlord change her position as the decision to have the tenancy reinstated is in the discretion of the landlord. .

The tenant testified she is pregnant and is due to give birth in early January. The landlord testified she was prepared to agree to have the effective date of the Order for Possession to be set for February 28, 2015 provided the tenants paid the rent for February. The tenant agreed to pay the rent for February. **As a result I granted an Order for Possession effective February 28, 2015.**

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, Security Deposit and Cost of Filing fee

**I determined the tenant has failed to pay the rent and the sum of \$215.77 remains outstanding. I granted the landlord a monetary order in the sum of \$215.77 plus the sum of \$50 in respect of the filing fee for a total of \$265.77 such sum may be deducted from the security deposit.**

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: December 22, 2014

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Residential Tenancy Branch

