



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding BC HOUSING MANAGEMENT COMMISSION  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MNR, FF

### Introduction

This hearing was convened by way of conference call in repose to the landlord's application for an Order of Possession for unpaid rent; for a Monetary Order for unpaid rent; and to recover the filing fee from the tenant for the cost of this application.

The tenant and landlord attended the conference call hearing, gave sworn testimony and were given the opportunity to cross examine each other on their evidence. The landlord provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing. The tenant confirmed receipt of evidence. All evidence and testimony of the parties has been reviewed and are considered in this decision.

### Issue(s) to be Decided

- Is the landlord entitled to an Order of Possession due to unpaid rent?
- Is the landlord entitled to a Monetary Order to recover unpaid rent?

### Background and Evidence

The parties agreed that this month to month tenancy started on September 01, 2010. Rent for this unit is \$500.00 per month and is due on the 1st of each month.

The landlord testified that the tenant failed to pay all the rent due for July, 2014 leaving an unpaid balance of \$142.34, for August, 2014 leaving an unpaid balance of \$164, for September, 2014 of \$500.00, and for October of \$500.00. The landlord issued a 10 Day Notice to End Tenancy (the Notice) for unpaid rent on October 08, 2014. This was served to the tenant on this

date by posting it to the tenant's door. The Notice stated that the tenant owes rent of \$1,182.38.00 which was due on October 01, 2014. The tenant had five days to either pay the outstanding rent or apply for Dispute Resolution or the tenancy would end on October 23, 2014. The tenant did not pay the outstanding rent or dispute the Notice within five days. However the tenant did make a payment of \$500.00 on October 20, 2014 which was applied to the outstanding rent for July and August and \$193.66 was applied to September's rent. This left outstanding rent for September of \$306.34 and for October of \$500.00. Since that time the tenant has failed to pay rent for November and December, 2014 of \$1,000.00.

The landlord requested an Order of Possession to take effect on December 31, 2014 and a Monetary Order to recover the unpaid rent of \$1,806.34 and the filing fee of \$50.00.

The tenant does not dispute that rent is owed to the landlord of \$1,806.34. The tenant testified she has experienced some problems and is hoping to be in a position to pay the rent arrears by the end of next week. The tenant hopes the landlord will reconsider their position in evicting the tenant.

### Analysis

Section 26 of the *Residential Tenancy Act (Act)* states: *A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.*

Consequently, I am satisfied from the undisputed documentary evidence and testimony before that the tenant owes rent of **1,806.34**. Consequently, the landlord will receive a Monetary Order for this amount pursuant to s. 67 of the *Act*.

I accept that the tenant was served the 10 Day Notice to End Tenancy for unpaid rent, pursuant to section 88 of the *Residential Tenancy Act*. The Notice stated that the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant did not pay the outstanding rent within five days nor apply to dispute the Notice within five days.

Based on the foregoing, I find that the tenant is conclusively presumed, under section 46(5) of the *Act*, to have accepted that the tenancy ended on the effective date of the Notice. As this date has since passed and the landlord requests an Order of Possession for the end of December, 2014 I hereby grant the landlord an Order of Possession pursuant to s. 55 of the *Act*.

The landlord is entitled to recover the **\$50.00** filing fee from the tenant, pursuant to s. 72(1) of the *Act*.

### Conclusion

I HEREBY FIND in favor of the landlord's monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$1,856.34** comprised of unpaid rent and the filing fee. The Order must be served on the Respondent. If the Respondent fails to comply with the Order, the Order is enforceable through the Provincial Court as an Order of that Court.

I HEREBY ISSUE an Order of Possession in favour of the landlord effective **by 1.00 p.m. on December 31, 2014**. This Order must be served on the Respondent. If the Respondent fails to comply with this Order, the Order may be filed in the Supreme 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 03, 2014

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Residential Tenancy Branch

