



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      For the tenant: CNR, FF  
For the landlord: OPR, MNR, FF

### Introduction

This hearing was convened as the result of the cross applications of the parties for dispute resolution seeking remedy under the Residential Tenancy Act (the "Act").

The tenant applied for an order seeking cancellation of a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice") and for recovery of the filing fee paid for this application.

The landlord applied for an order of possession for the rental unit due to unpaid rent, a monetary order for unpaid rent, and for recovery of the filing fee paid for this application.

The landlord's agent (hereafter "landlord") attended; the tenant did not attend the telephone conference call hearing.

The landlord gave evidence that he served the tenant with the Application for Dispute Resolution and Notice of Hearing by leaving the documents with the tenant on December 16, 2014.

Based upon the submissions of the landlord, I find the tenant was served notice of this hearing in a manner complying with section 89(1) of the Act and the hearing proceeded in the tenant's absence.

The landlord was provided the opportunity to present his evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

*Preliminary matter*-The landlord submitted that the tenant vacated the rental unit on January 10, 2015, and as a result, the landlord was no longer seeking an order of possession for the rental unit. I have excluded this request from further consideration.

*Preliminary matter#2*-In the absence of the tenant to present his application, pursuant to section 10.1 of the Rules, I dismiss the tenant's application, without leave to reapply

### Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent and to recovery of the filing fee paid for this application?

### Background and Evidence

There was no written tenancy agreement entered into evidence; the landlord submitted that the tenancy began in March 2014 and that monthly rent is \$1600, plus utilities.

The landlord stated that he served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent on December 10, 2014, by leaving it with the tenant. The effective move-out date listed was December 20, 2014.

The Notice informed the tenant that he had 5 days of receipt of the Notice to file an application for dispute resolution with the Residential Tenancy Branch ("RTB") to dispute the Notice or to pay the rent in full; otherwise the tenant is conclusively presumed to have accepted that the tenancy is ending and must move out of the rental unit by the effective move-out date listed on the Notice.

The landlord asserted that since the issuance of the Notice, they have not received any rent payments from the tenant and that through the date of the hearing, the tenant owed \$3200, which included unpaid rent for December 2014 and January 2015. It is noted that the landlord's monetary claim listed in their application is \$3600; however, the landlord said this was in error and should be the equivalent of 2 months' rent, or \$3200.

### Analysis

Based upon the landlords' undisputed oral and written evidence, I find the tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, did not pay the outstanding rent within 5 days of receiving the Notice and did not vacate the rental unit. Additionally the tenant did not appear at the hearing in support of his own application.

I therefore find that the tenant owes the landlord unpaid rent for December 2014 and January 2015, in the amount of \$3200, in total.

I also grant the landlord recovery of their filing fee of \$50.

I therefore find that the landlord is entitled to a monetary award in the amount of \$3250, comprised of outstanding rent of \$3200 for December 2014 for \$1600 and January 2015 for \$1600, and the \$50 filing fee paid by the landlord for this application.

Conclusion

The tenant's application is dismissed due to his failure to attend the hearing and as I have granted the landlords' application.

The landlord's application for monetary compensation is granted.

I grant the landlord a final, legally binding monetary order for the amount of their monetary award of \$3250, pursuant to section 67 of the Act, which is enclosed with the landlord's Decision.

Should the tenant fail to pay the landlord this amount without delay after the order has been served upon him, the order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an order of that Court. The tenant is advised that costs of such enforcement are recoverable from the tenant.

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 13, 2015

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Residential Tenancy Branch

