



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

<u>Dispute Codes</u>	Tenant CNR
	Landlord OPR, MNR, FF

### Introduction

This hearing dealt with cross applications for Dispute Resolution filed by both the Landlord and the Tenant.

The Landlord filed seeking an Order of Possession, a monetary order for unpaid rent and to recover the filing fee for this proceeding.

The Tenant filed to obtain an order to cancel the Notice to End Tenancy.

Service of the hearing documents by the Landlord to the Tenant were done by registered mail on December 18, 2014 in accordance with section 89 of the Act.

The Tenant did not attend the hearing. Consequently because of the absence of any evidence from the Tenant to support the application, the Tenant's application is dismissed without leave to reapply.

The conference call continued hearing only the Landlord's application.

### Issues to be Decided

Landlord:

1. Is the Landlord entitled to an Order of Possession?
2. Is there unpaid rent and if so how much?
3. Is the Landlord entitled to compensation for unpaid rent and if so how much?

### Background and Evidence

This tenancy started in January 2014 as a verbal month to month tenancy. Rent started at \$675.00 plus utilities and then changed to \$800.00 per month including utilities. No security deposit was paid.

The Landlord said that he took over the management of the tenancy from his ex-wife on October 27, 2014. The Landlord continued to say there were discussions with the Tenant about a new tenancy agreement being made but the Landlord and Tenant did not agree on the terms of a new agreement so the old tenancy agreement stayed in place. The Landlord said the Tenant has not paid the rent since October 31, 2014 and the Tenant now has unpaid rent of \$800.00 for each month of November, December, 2014 and January 2015 for a total of \$2,400.00 in unpaid rent. The Landlord requested a monetary order for \$2,400.00 in unpaid rent plus the \$50.00 filing fee for this proceeding and for an Order of Possession for as soon as possible.

As a result of the unpaid rent the Landlord he personally delivered a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated December 5, 2014 to the Tenant on December 5, 2014. The Landlord further indicated that the Tenant is living at the rental unit and the Landlord wants to end the tenancy as soon as possible.

### Analysis

Section 26 (1) of the Act says 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

I find that the Tenant has not paid the overdue rent and the Tenant does not have the right to withhold a part or all of the unpaid rent. The Tenant's application to dispute the Notice to End Tenancy has been dismissed as the Tenant did not attend the hearing. Consequently, I find for the Landlord and award the Landlord an Order of Possession and a Monetary Order for unpaid rent.

I find pursuant to s. 55 of the Act that the Landlord is entitled to an Order of Possession to take effect 48 hours after service of it on the Tenant and occupants.

I also find that the Landlord is entitled to recover unpaid rent for the month of November, December, 2014 and January, 2015 in the amount of \$2,400.00.

As the Landlord has been successful in this matter, he is also entitled to recover from the Tenant the \$50.00 filing fee for this proceeding. The Landlord will receive a monetary order for the balance owing as following:

Rent arrears:	\$2,400.00	
Recover filing fee	\$ 50.00	
Subtotal:		\$2,450.00
Balance Owing		\$2,450.00

### Conclusion

An Order of Possession effective 2 days after service of it on the Tenant and a Monetary Order in the amount of \$2,450.00 have been issued to the Landlord. A copy of the Orders must be served on the Tenant: the Order of Possession may be enforced in the Supreme Court of British Columbia and the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia.

The Tenant's application is dismissed without leave to reapply.

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

