



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Capital J Management Ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR MNR FF

### Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim.

### Preliminary Issue – Request for Adjournment

The landlord called in to the hearing on time. An agent for the tenant called in to the hearing approximately nine minutes after the hearing commenced, and requested an adjournment as the tenant was at work. The agent stated that he had only called in to request an adjournment and was not in a position to fully represent the tenant in the hearing. I declined to grant an adjournment, as the tenant had been served with the notice of the hearing and ought to have made appropriate arrangements to either attend the hearing or have an agent who could fully represent her in the hearing.

### Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order?

### Background and Evidence

The tenancy began on February 1, 2014. Rent in the amount of \$1050 is payable in advance on the first day of each month. At the outset of the tenancy, the landlord collected a security deposit from the tenant in the amount of \$525. The tenant failed to pay rent in the months of January and February 2015, and on February 2, 2015 the landlord served the tenant with a notice to end tenancy for non-payment of rent. The tenant further failed to pay rent in the month of March 2015.

The Landlord's evidence included the following:

- a copy of a residential tenancy agreement, signed by the tenant and the landlord, indicating a monthly rent of \$1050 due on the first of each month and verifying that the tenant paid a security deposit of \$525;
- a copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, issued on February 2, 2015, with an effective vacancy date of February 15, 2015, for failure to pay rent in the amount of \$2100 that was due on February 1, 2105;
- testimony that the tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent by posting the notice on the rental unit door on February 2, 2015; and
- a copy of the Landlord's Application for Dispute Resolution, filed February 19, 2015 and served on the tenant by registered mail sent on February 23, 2015.

### Analysis

I have reviewed all evidence and I accept that the tenant was served with the notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenant on February 5, 2015.

I accept the evidence before me that the tenant has failed to pay the rent owed within the five days granted under section 46(4) of the Act. 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. The landlord is therefore entitled to an order of possession.

As for the monetary order, based on the above-noted evidence I find that the landlord has established a claim for \$3150 in unpaid rent and lost revenue. The landlord is also entitled to recovery of the \$50 filing fee.

### Conclusion

I grant the landlord an order of possession effective two days from service. The tenant must be served with the order of possession. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

The landlord is entitled to \$3200. I order that the landlord retain the security deposit of \$525 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$2675. This order may be filed in the Small Claims 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: March 20, 2015

---

Residential Tenancy Branch

