



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Dispute Codes

LANDLORD: OPR, MNR, FF  
TENANT: CNR, MNDC, AAT

### Introduction

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

The Landlords 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, for compensation for loss or damage under the Act, regulations or tenancy agreement and to obtain access to the rental unit.

Service of the hearing documents by the Landlords to the Tenant were done by registered mail on August 13, 2015 in accordance with section 89 of the Act.

The Tenant did not attend the hearing therefore I dismiss the Tenant's application without leave to reapply.

The hearing continued to hear the Landlords' 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 on August 1, 2015 as a month to month tenancy. Rent is \$900.00 per month payable in advance of the 1st day of each month. The Tenant did not pay a security deposit.

The Landlord said that the Tenant did not pay rent of \$900.00 for the month of August, 2015, when it was due and as a result, on August 4, 2015, the Landlords posted a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated August 4, 2015 to the door of the rental unit. The Landlord continued to say the Tenant has unpaid rent of \$900.00 for each month of September and October, 2015. The Landlord said the Tenant is living in the unit and they want to end the tenancy as soon as possible. The Landlord requested an Order of Possession for as soon as possible.

The Landlord also said he is also seeking to recover the \$50.00 filing fee for this proceeding. The Landlord said his total claim is for \$2,700.00 in unpaid rent and the \$50.00 filing fee for a total claim of \$2,750.00.

### 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 in the amount of \$2,700.00.

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.

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:	\$2,700.00	
Recover filing fee	\$ 50.00	
Subtotal:		\$2,750.00
 Balance Owing		 \$2,750.00

Conclusion

An Order of Possession effective 2 days after service of it on the Tenant and a Monetary Order in the amount of \$2,750.00 have been issued to the Landlords. 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.

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: October 13, 2015

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Residential Tenancy Branch

