



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, MDSD & FF

### Introduction

The Application for Dispute Resolution filed by the landlord makes the following claims:

- a. An Order for Possession for non-payment of rent
- b. A monetary order in the sum of \$2315.91 for unpaid rent.
- c. An order to retain the security deposit.
- d. An order to recover the cost of the filing fee

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present. The parties acknowledged they had received the documents of the other party.

I find that the 10 day Notice to End Tenancy was served on the Tenant by posting on September 2, 2015. Further I find that the Application for Dispute Resolution/Notice of Hearing was served on the Tenant by mailing, by registered mail to where the tenant resides on September 23, 2015. With respect to each of the applicant's claims I find as follows:

### Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the landlord is entitled to an Order for Possession?
- b. Whether the landlord is entitled to A Monetary Order and if so how much?
- c. Whether the landlord is entitled to retain all or a portion of the security deposit/pet deposit?
- d. Whether the landlord is entitled to recover the cost of the filing fee?

### Background and Evidence

The parties entered into a fixed term written tenancy agreement that provided that the tenancy would start on September 1, 2013, end on August 31, 2014 and become month to month after that. The present rent is \$759.47 per month payable on the first day of each month. The tenant paid a security deposit of \$362.50 at the start of the tenancy. The tenant(s) failed to pay the rent for the months of November and the sum of \$484.47 remains owing (including a \$25 late fee). The tenant(s) have remained in the rental unit.

### Analysis - Order of Possession:

I determined the landlord was entitled to an Order for Possession. There is outstanding rent. The Tenant(s) have not made an application to set aside the Notice to End Tenancy and the time to do so has expired. In such situations the Residential Tenancy Act provides the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and must vacate the rental unit by that date. Accordingly, I granted the landlord an Order for Possession effective November 30, 2015.

The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court of British Columbia for enforcement.

### Analysis - Monetary Order and Cost of Filing fee:

I determined the tenant has failed to pay the rent for the month(s) of November and the sum of \$484.47 remains outstanding including a \$25 late fee. I determined the landlord has given sufficient notice of their intention to claim for all of last month as provided in the Application for Dispute Resolution. I granted the landlord a monetary order in the sum of \$484.47 plus the sum of \$50 in respect of the filing fee for a total of \$534.47.

### Security Deposit:

I dismissed the claim for the security deposit with liberty to re-apply as it appears the parties may be settling this matter and the tenancy will be reinstated.

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial Court and enforced as an Order of that Court.

Settlement:

The parties reached a settlement and they asked that I record the settlement pursuant to section 63(2) of the Residential Tenancy Act as follows:

1. The tenant shall make the following payments:
  - The arrears for November including the late fee and filing fee in the sum of \$534.47 by November 30, 2015.
  - The rent for December in the sum of \$759.47 by December 18, 2015.
  - The rent for January 2016 in the sum of \$759.47 by January 1, 2016.
2. The parties agreed that if the tenant makes the payments as provided above the landlord shall reinstate the tenancy. However, if the tenant fails to make one or more of the payments as provided above the landlord shall have the right to enforce the orders.

Conclusion

In conclusion I ordered that the Tenant pay to the Landlord the sum of \$534.47 and I granted an Order for Possession effective November 30, 2015. I also recorded a settlement between the parties which involved the reinstatement of the tenancy on the condition the tenant repay the rent and make the payments of the rent for December and January.

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: November 23, 2015

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Residential Tenancy Branch

