



# 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 for unpaid rent
- c. An order to recover the cost of the filing fee

A hearing was conducted by conference call in the presence of a representative of the applicant and in the absence of the respondent although duly served. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

I find that the 10 day Notice to End Tenancy was sufficiently served on the Tenant by posting on August 25, 2015. Further I find that the Landlord's Application for Direct Request was sufficiently served on the Tenant by posting on September 24, 2015. The Adjudicator determined that the order requested could not be granted as the residential tenancy agreement submitted by the landlord had not date indicating when the rent was due and she ordered that this matter be reconvened as a participatory hearing.

The Interim Decision and Notice of Reconvened hearing setting this matter down was set out by mail to the landlord and the tenant. The landlord failed to serve a copy of the Interim Decision and Notice of Reconvened Hearing on the Tenant. However, the landlord testified that he witnessed the tenant pick up the letter from the Residential Tenancy Branch containing these documents from the mailroom of the hotel. Further, he testified he has had several conversations with the tenant where the tenant acknowledged that he owes the rent, that he was waiting for the process to complete itself and that he had received the documents from the Residential Tenancy Branch including the Interim Decision and Notice of Reconvened Hearing.

Section 71(2) of the Residential Tenancy Act provides as follows:

**71** (2) In addition to the authority under subsection (1), the director may make any of the following orders:

- (a) that a document must be served in a manner the director considers necessary, despite sections 88 [*how to give or serve documents generally*] and 89 [*special rules for certain documents*];
- (b) that a document has been sufficiently served for the purposes of this Act on a date the director specifies;
- (c) that a document not served in accordance with section 88 or 89 is sufficiently given or served for purposes of this Act.

I determined the Application for Dispute Resolution, Interim Decisions and Notice of Reconvened Hearing has been sufficiently served for the purpose of section 88 and 89 as the tenant has knowledge of this hearing.

#### 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 tenancy started on March 1, 2010. The rent is \$500 per month payable on the first day of each month. The tenant did not pay a security deposit. The tenant(s) continues to reside 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 on 2 days notice..

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 August (\$400 is owed), September (\$500 is owed), October (\$500 is owed) and November (\$500 is owed) and the sum of \$1900 remains outstanding. I dismissed the claim for non-payment of rent for December with liberty to re-apply as it is possible the landlord will re-rent the room and reduce the loss. I granted the landlord a monetary order in the sum of \$1900 plus the sum of \$50 in respect of the filing fee for a total of \$1950.

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.

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: December 02, 2015

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Residential Tenancy Branch

