



# Dispute Resolution Services

Page: 1

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 \$3024 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 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.

I find that the 10 day Notice to End Tenancy was served on the Tenant by posting on October 8, 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 October 23, 2015.

### 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 written tenancy agreement that provided that the tenancy would start on April 2, 2015. The rent is \$926 per month payable on the first day of each month. The tenant paid a security deposit of \$462.50 at the start of the tenancy.

The tenant(s) was laid off from his work in August. He has requested an increase in his subsidy. However, the process has not been completed. At present the sum of \$744 is owed in outstanding rent to the end of December. The landlord stated they need further information from the tenant in order to determine whether he is entitled to an increase in the subsidy. Further, such an increase is also dependent on whether there is sufficient money in the landlord's budget for an increase.

The tenant(s) continues to live in the rental unit. .

### Analysis

An arbitrator does not have the jurisdiction to consider whether a tenant is entitled to an increase in subsidy in a situation such as this. That issue must be worked out between the parties.

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. I set the effective date of the Order for Possession for December 31, 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.

The parties are encouraged to meet to see whether it is possible for the tenant to obtain an increase in subsidy, whether the tenant can make arrangements to pay the arrears and whether the tenancy can be brought into good standing and reinstated.

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

I determined the tenant has failed to pay the rent and the sum of \$733 remains outstanding. 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 \$733 plus the sum of \$50 in respect of the filing fee for a total of \$783.

Security Deposit:

I determined the security deposit plus interest totals the sum of \$462.50. I ordered the landlord may retain this sum leaving a balance of \$320.50. I ordered that the tenant pay to the landlord the sum of \$320.50.

Conclusion:

I granted an Order for Possession effective December 31, 2015. I determined the tenant owes the Landlord the sum of \$783. I ordered that the landlord shall retain the security deposit of \$462.50. I further ordered that the Tenant pay to the Landlord the sum of \$320.50.

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 18, 2015

---

Residential Tenancy Branch

