



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** OPR; MNR; MNDC; FF

### **Introduction**

This is the Landlord's application for an Order of Possession; a Monetary Order for unpaid rent and loss of revenue; and to recover the cost of the filing fee from the Tenant.

The Landlord gave affirmed testimony through his translator at the Hearing.

The Landlord testified that the Notice of Hearing documents were handed to the Tenant at the rental property, with a witness present, on November 5, 2015.

Based on the Landlord's affirmed testimony, I am satisfied that the Tenant was duly served with the Notice of Hearing documents. Despite being served with the Notice of Hearing documents, the Tenant did not sign into the teleconference and the Hearing proceeded in his absence. The teleconference remained open for 15 minutes.

### **Issues to be Decided**

- Is the Landlord entitled to an Order of Possession?
- Is the Landlord entitled to a Monetary Order, and if so, in what amount?

### **Background and Evidence**

The Landlord gave the following testimony:

This tenancy began on June 6, 2013. Monthly rent is \$450.00, due on the first day of each month. The Tenant paid a security deposit in the amount of \$225.00 at the beginning of the tenancy. During the Hearing, the Landlord asked to apply the security deposit towards his monetary award.

On October 23, 2015, the Landlord served the Tenant with a 10 Day Notice to End Tenancy for Unpaid Rent, by handing the document to the Tenant at the rental unit with a witness present. The Landlord provided a photograph and a Proof of Service document, which is signed by the witness.

The Landlord testified that the Tenant has not moved out of the rental unit.

The Landlord testified that the Tenant has not paid any of the money due to the Landlord. The Landlord requested a monetary order for unpaid rent and loss of rent, as follows:

Unpaid rent as at October 1, 2015	\$1,350.00
Loss of revenue (Nov – January)	<u>\$1,350.00</u>
TOTAL AMOUNT CLAIMED	\$2,700.00

### **Analysis**

I accept that the Landlord served the Tenant with the Notice to End Tenancy on October 23, 2015. I also accept the Landlord's undisputed testimony that the Tenant did not pay all of the arrears within 5 days of receiving the documents. The Tenant did not make an Application for Dispute Resolution seeking to cancel the Notice. Therefore, pursuant to Section 46(5) of the Act, the Tenant is conclusively presumed to have accepted that the tenancy ended on November 2, 2015. I find that the Landlord is entitled to a monetary award and an Order of Possession.

The Landlord has established a monetary claim for unpaid rent and loss of revenue in the total amount of \$2,700.00.

Pursuant to Section 72(2)(b) of the Act, the Landlord may apply the security deposit towards partial satisfaction of his monetary award.

The Landlord has been successful in his application and I find that he is entitled to recover the cost of the \$50.00 filing fee from the Tenant.

I hereby provide the Landlord with a Monetary Order, calculated as follows:

Unpaid rent and loss of revenue	\$2,700.00
Recovery of the filing fee	<u>\$50.00</u>
Subtotal	\$2,750.00
Less security deposit	<u>- \$225.00</u>
<b>TOTAL AMOUNT DUE TO THE LANDLORD AFTER SET-OFF</b>	<b>\$2,525.00</b>

### **Conclusion**

I hereby grant the Landlord an Order of Possession **effective 2 days after service of the Order upon the Tenant**. This Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

I hereby grant the Landlord a Monetary Order in the amount **of \$2,525.00** for service upon the Tenant. This Order may be filed in the Provincial Court of British Columbia (Small Claims) 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: January 06, 2016

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Residential Tenancy Branch

