



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: OPR, MNRL & FFL

### **Introduction**

The Application for Dispute Resolution filed by the landlord seeks the following:

- a. An Order for Possession for non payment of rent
- b. A Monetary Order in the sum of \$2980 for non-payment of 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 June 13, 2018. Further I find that the Application for Dispute Resolution and Notice of Dispute Resolution Hearing was served on tenant by mailing, by registered mail to where the Tenant resides on October 22, 2018. 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 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 February 1, 2010. The rent is geared to income. The present rent is

\$595 per month payable in advance on the first day of each month. The tenant(s) did not pay a security deposit.

The Tenant failed to pay the rent for the months of June 2018 to October 2018 and the sum of \$2980 remains owing. The rent for November has been paid and accepted by the landlord for "use and occupation only."

The tenant's family 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. However, with the consent of the landlord I set the effective date of the Order of Possession for December 31, 2018 as the landlord has agreed to give the tenant and her family time to pay off the arrears as set out below.

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 June 2018 to October 2018 and the sum of \$2980 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 \$2980 plus the sum of \$100 in respect of the filing fee for a total of \$3080.

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 representative of Tenants stated that he has requested financial assistance to pay off the arrears and hopes to be in a position to bring the arrears into good standing very shortly. The landlord agrees that if the Tenant(s) pays the arrears including the filing fee of \$3080 and the rent for December 2018 in the sum of \$595 for a total of \$3675 by December 31, 2018 the landlord shall reinstate the tenancy and shall not exercise its rights under the Order of Possession and the monetary order.

**This decision is final and binding on the parties.**

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 27, 2018

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Residential Tenancy Branch