



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## DECISION

Dispute Codes: OPR, MNR, MNSD, FF

### Introduction

This matter dealt with an application by the Landlord for an Order of Possession and a Monetary Order for unpaid rent as well as to recover the filing fee for this proceeding. The Landlord also applied to keep all or part of a security deposit.

### Issue(s) to be Decided

1. Is the Landlord entitled to end the tenancy?
2. Are there rent arrears and if so, how much?
3. Is the Landlord entitled to keep the Tenant's security deposit?

### Background and Evidence

This month to month tenancy started on January 1, 2009. Rent is \$800.00 per month payable in advance on the 1<sup>st</sup> day of each month. The Tenant did not pay a security deposit.

The Landlord claims that the Tenant had arrears for August in the amount of \$800.00 and arrears for September 2009 of \$600.00 and as a result on September 16, 2009 the Landlord served the Tenant in person with a 10 Day Notice to End Tenancy dated September 16, 2009. The Parties agree that the Tenant has also not paid rent for October, November and December 2009.

### Analysis

Section 46(4) of the Act states that **within 5 days of receiving** a Notice to End Tenancy for Unpaid Rent or Utilities, a Tenant must either pay the overdue rent or apply for dispute resolution. If a Tenant fails to do either of these things, then under section 46(5) of the Act, they are conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice and they must vacate the rental unit at that time.

I find that the Tenant was served in person with the 10 Day Notice dated September 16, 2009 on September 16, 2009. Consequently, the Tenant would have had to pay the rent arrears or apply to dispute that amount indicated as rent arrears on the Notice no later than September 21, 2009.



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I find that the Tenant has not paid the overdue rent and has not applied for dispute resolution. Consequently, I find pursuant to s. 55(2)(b) of the Act that the Landlord is entitled to an Order of Possession to take effect 48 hours after service of it on the Tenant. I also find that the Landlord is entitled to recover rent arrears in the amount of \$3,800.00 as well as the \$50.00 filing fee for this proceeding.

## Conclusion

An Order of Possession effective 48 hours after service of it on the Tenant and a Monetary Order in the amount of **\$3,850.00** have been issued to the Landlord. A copy of the Orders must be served on the Tenant; the Order of Possession may be enforced in the Supreme Court of British Columbia and the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia.

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 15, 2009.

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Dispute Resolution Officer