



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, MNSD, FF

### Introduction

This hearing dealt with an application by the landlord for an order of possession for unpaid rent, a monetary order for unpaid rent, to keep all or part of the security deposit and recovery of the filing fee. Both parties participated in the conference call hearing.

### Issue(s) to be Decided

Is the landlord entitled to any of the above under the Act.

### Background and Evidence

This tenancy began September 22, 2004 with monthly rent of \$980.00 and the tenants paid a security deposit of \$490.00. On September 12, 2011 the landlord served the tenants with a 10 Day Notice to End Tenancy for Unpaid Rent, the tenants have not filed to dispute this notice.

The landlord testified that the tenants have paid all of the rent with the exception of \$295.00 and that the tenants were provided a receipt stating 'for use and occupancy only'. The landlord stated that they have worked out a payment plan for the rent owed with the tenants however as there have been issues in the past with the tenant paying the rent, the landlord is still seeking an order of possession effective 2 days after service upon the tenants.

The landlord verified in this hearing that the \$25.00 NSF fee, which is noted as \$20.00 on the tenancy agreement, had been changed a number of years ago and all of the tenants had been informed of this change in writing.

The landlord stated that the order of possession would not be enforced as long as the tenants made the payments as outlined in the payment agreement. The landlord is seeking a monetary order for the \$295.00 balance of unpaid rent.

The tenant testified that the payment agreement with the landlord was clearly understood and the tenant understood that the landlord will be issued an order of possession to be enforced if the tenants do not adhere to this plan.

### Analysis

Based on the documentary evidence and testimony I find that the tenant was properly served with a notice to end tenancy for non-payment of rent. The tenant did not pay the outstanding rent within 5 days of receiving the notice and did not apply for dispute resolution to dispute the notice and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice. Based on the above facts I find that the landlord is entitled to an order of possession and a monetary order for unpaid rent.

Accordingly I find that the landlord is entitled to a monetary order for \$295.00.

As the landlord has been successful in their application the landlord is entitled to recovery of the \$50.00 filing fee.

### Conclusion

I hereby grant the landlord an **Order of Possession**, effective **2 days** after service of the Order upon the tenants. This Order must be served on the tenants and may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

I find that the landlord has established a monetary claim for \$295.00 in unpaid rent. The landlord is also entitled to recovery of the \$50.00 filing fee. I grant the landlord a monetary order under section 67 for the amount of **\$345.00**.

If the amount is not paid by the tenants, the Order may be filed in the Provincial (Small Claims) Court of British Columbia 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: October 26, 2011.

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Residential Tenancy Branch