



# 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 hearing was scheduled in response to the Landlord's Application for Dispute Resolution, in which the Landlord has made application for an Order of Possession for Unpaid Rent, a monetary Order for unpaid rent, to retain all or part of the security deposit, and to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

Both parties were represented at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present relevant oral evidence, to ask relevant questions, and to make relevant submissions to me.

The Agent for the Landlord acknowledged that the male Tenant was not served with notice of this hearing. The Landlord has applied for a monetary Order which requires that the Landlord serve each respondent these documents, as set out under Section 3.1 of the Residential Tenancy Branch Rules of Procedures. As the Landlord did not serve the male Tenant with copies of the Application for Dispute Resolution Package and Notice of Hearing, the Landlord was given the opportunity to amend the Application for Dispute Resolution or to withdraw the Application. The Agent for the Landlord asked to amend the Application for Dispute Resolution, as it relates to the application for a monetary Order, to include only the female tenant who has been properly served with notice of this hearing. The Application for Dispute Resolution has been amended in accordance with the request of the Landlord.

### Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to an Order of Possession for unpaid rent; to a monetary Order for unpaid rent; to keep all or part of the security deposit; and to recover the filing fee from the Tenant for the cost of the Application for Dispute Resolution, pursuant to sections 38, 55, 67, and 72 of the *Residential Tenancy Act (Act)*.

## Background and Evidence

The Agent for the Landlord and the Tenant agree that this tenancy began on December 01, 2008; that the Tenants were required to pay monthly rent of \$800.00; and that the Tenants paid a security deposit of \$400.00 on December 01, 2008.

The Agent for the Landlord stated that a ten (10) day Notice to End Tenancy for non-payment of rent, which had an effective date of June 11, 2009 was posted on the front door of the rental unit on, or about June 01, 2009. The Notice indicated that the Tenant is presumed to have accepted that the tenancy is ending and that the Tenant must move out of the rental unit by the date set out in the Notice unless the Tenant pays the outstanding rent or files an Application for Dispute Resolution within five days of the date they are deemed to have received the Notice.

The Agent for the Landlord and the Tenant agree that the Tenant still owes \$800.00 in rent from June of 2009.

At the end of the hearing, the Agent for the Landlord and the Tenant mutually agreed to end this tenancy on June 30, 2009.

## Analysis

I find that the Tenants entered into a tenancy agreement with the Landlord, and that the Tenants were required to pay monthly rent of \$800.00.

As the Tenant does not dispute that she still owes \$800.00 in rent from June of 2009, I find that she is obligated to pay this amount to the Landlord.

I find that the Landlord's application has merit, and I find that the Landlord is entitled to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

## Conclusion

On the basis of the mutual agreement to end this tenancy on June 30, 2009, I hereby grant the Landlord an Order of Possession that is effective at 1:00 p.m. on June 30, 2009. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.



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I find that the Landlord has established a monetary claim, in the amount of \$850.00, which is comprised of \$800.00 in unpaid rent and \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution.

I hereby authorize the Landlord to retain the security deposit plus interest, in the amount of \$400.51, in partial satisfaction of the monetary claim.

Based on these determinations I grant the Landlord a monetary Order for the balance of \$449.49. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia Small Claims 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: June 18, 2009.

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Dispute Resolution Officer