



# 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 dealt with the landlord's application for an Order of Possession for unpaid rent; a Monetary Order for unpaid rent; authorization to retain the security deposit and recovery of the filing fee. The tenant did not appear at the hearing. The landlord testified that he personally served the tenant with the hearing documents on June 7, 2010. Based on the landlord's undisputed testimony I was satisfied the landlord served the tenant in a manner that complies with the Act and I proceeded to hear from the landlord without the tenant present.

### Issues(s) to be Decided

1. Is the landlord entitled to an Order of Possession?
2. Is the landlord entitled to a Monetary Order and if so, the amount?
3. Is the landlord authorized to retain the tenant's security deposit?

### Background and Evidence

The landlord testified as follows. The tenancy commenced in October or November 2009. The tenant is required to pay rent of \$625.00 on the 1<sup>st</sup> day of every month. The tenant paid \$125.00 of the required security deposit. There is no written tenancy agreement. The tenant failed to pay rent as follows: \$200.00 for January 2010; \$30.00 for February 2010; \$625.00 for the months of April 2010 through July 2010.

The landlord also testified that on May 22, 2010 the landlord personally served a 10 Day Notice to End Tenancy for Unpaid Rent (the Notice) upon the tenant. The Notice has an effective date of May 31, 2010 and indicates \$1,685.00 is owed for April and May.

Upon enquiry, the landlord explained the amount appearing on the Notice is comprised of the following amounts:

January 2010 unpaid rent	\$ 200.00
February 2010 unpaid rent	30.00
Pay Per View charges	50.00
April 2010 unpaid rent	625.00
May 2010 unpaid rent	625.00
Balance of security deposit owed	<u>155.00</u>
Amount indicated on Notice	\$ 1,685.00

The landlord testified that the tenant has made no payments since the Notice was served upon the tenant and continues to reside in the rental unit. In making this application, the landlord requested an order for unpaid rent up to and including July 2010.

Documentary evidence provided for this hearing was a copy of the Notice issued May 22, 2010. The landlord claimed to have a promissory note signed by the tenant agreeing to pay for the Pay Per View charges; however, the landlord did not serve a copy of the note as evidence. Nor did the landlord send in a copy of the cable bill showing the charges. The landlord offered to send in a copy of the note but I refused to accept evidence not served in accordance with the Rules of Procedure.

Analysis

When a tenant receives a 10 Day Notice the tenant has five days to pay the outstanding rent or dispute the Notice. Otherwise, the tenant is conclusively presumed to have accepted the Notice and must vacate the rental unit by the effective date. Based upon the landlord's undisputed testimony, I am satisfied the landlord served the tenant with a 10 Day Notice on May 22, 2010 and the tenant did not pay the outstanding rent or dispute the Notice. The effective date is automatically changed to read June 1, 2010 in order to comply with the Act. Accordingly, I find the tenancy ended June 1, 2010 and the landlord is entitled to regain possession of the rental unit.

With this decision I provide the landlord with an Order of Possession effective two days after service of the Order of Possession upon the tenant. The Order of Possession may also be enforced in the Supreme Court of British Columbia as an Order of that court.

Based upon the landlord's undisputed testimony I am satisfied that the landlord is entitled to recover unpaid rent and loss of rent up until the month of July 2010. I deny the Pay Per View charges as the landlord did not provide a copy of the promissory note or the cable bill as evidence of the charges.

As the landlord was largely successful with this application, I also award the filing fee to the landlord. The landlord is authorized to retain the tenant's security deposit in partial satisfaction of the rent owed by the tenant.

I provide for the landlord with this decision a Monetary Order in the amount of \$2,655.00 calculated as follows:

January 2010 unpaid rent	\$ 200.00
February 2010 unpaid rent	30.00
April 2010 unpaid rent	625.00
May 2010 unpaid rent	625.00
June 2010 unpaid rent	625.00
July 2010 loss of rent	625.00
Filing fee	50.00
Less: security deposit	<u>( 125.00)</u>
Monetary Order	<u>\$ 2,655.00</u>

The landlord must serve the Monetary Order upon the tenant and may file it in Provincial Court (Small Claims) to enforce as an Order of that court.

### Conclusion

The tenancy has ended and the landlord is provided an Order of Possession effective two (2) days after service upon the tenant.

The landlord is authorized to retain the security deposit and is provided a Monetary Order for the balance of \$2,655.00 to serve upon the tenant.

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: July 21, 2010.

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Dispute Resolution Officer