



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPC, MNR, MNDC, FF, O

### Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order of Possession - Section 55;
2. A Monetary Order for unpaid rent / loss of revenue - Section 67;
3. An Order to retain the security deposit - Section 38;
4. An Order to recover the filing fee for this application - Section 72.

I accept the Landlord’s evidence that the Tenant was served with the application for dispute resolution and notice of hearing by personal service in accordance with Section 89 of the Act. The Tenant did not participate in the conference call hearing. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

### Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession?

Is the Landlord entitled to the monetary amounts claimed?

Is the Landlord entitled to recover of the filing fee?

### Background and Evidence

The tenancy began on November 15, 2010. Rent in the amount of \$550.00 is payable in advance on the first day of each month. At the outset of the tenancy, the Landlord collected a security deposit from the Tenant in the amount of \$300.00.

At a Hearing dated May 9, 2011, the Landlord and Tenant agreed to end the tenancy as of May 31, 2011 and the Tenant agreed to reimburse the Landlord for the \$50.00 filing

fee associated with the application for the Hearing. This agreement was recorded in a decision dated May 9, 2011. The decision did not include an Order for Possession or a Monetary Order for the Landlord in relation to the agreement. Following the Hearing, and relying upon the agreement reached, the Landlord advertised the unit at a cost of \$56.80 and obtained a new tenant for June 1, 2011. The Tenants did not leave the unit or pay the Landlord for the filing fee as agreed and as of the date of this Hearing are still occupying the unit and did not pay rent for June 2011. The Landlord was unable to provide the unit to the new tenants. The Landlord quantum of the Landlord's monetary claim is \$650.00.

### Analysis

Section 63 of the Act provides that if parties settle their dispute during dispute resolution proceedings, the director may record the settlement in the form of a decision or order. Section 55 further provides that a Landlord may be granted an Order of Possession where the parties have agreed in writing that the tenancy is ended. Given the Tenants' agreement to end the tenancy as of May 31, 2011, the decision recording this agreement in writing, and the failure of the Tenants to move out of the unit or pay the Landlord as agreed, I find that the Landlord is entitled to an Order of Possession.

Given the Tenants agreement to pay the Landlord \$50.00 and their failure to pay this amount to the Landlord, I further find that the Tenants are in breach of the agreement and the Landlord is entitled to this sum. I find that the Landlord has also substantiated and is entitled to a monetary claim for unpaid rent and advertising costs. The Landlord is entitled to recovery of the \$50 filing fee for this application, for a total entitlement of **\$706.50**. The **security deposit** will be off-set from the award made herein.

### ***Calculation for Monetary Order***

Unpaid rent	\$550.00
Unpaid filing fee per agreement	50.00
Advertising costs	56.80
Filing Fees for the cost of this application	50.00
Less Security Deposit and interest <i>to date</i>	-300.00
<b>Total Monetary Award</b>	<b>\$406.80</b>

Conclusion

**I Grant** an Order of Possession to the Landlord. The Tenant must be served with this **Order of Possession**. Should the Tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

**I Order** that the Landlord retain the **deposit** and interest of \$300.00 in partial satisfaction of the claim and I grant the Landlord an Order under Section 67 of the Act for the balance due of **\$406.80**. If necessary, this Order may be filed in the 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 16, 2011.

---

Residential Tenancy Branch