



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, FF

### Introduction

This hearing dealt with the landlord's application for an Order of Possession and a Monetary Order for unpaid rent. The tenant did not appear at the hearing. The landlord provided a registered mail receipt as proof the hearing documents were sent to the tenant at the rental unit on May 20, 2011. The landlord confirmed that the tenant was served with the application and the landlord's evidence and that the landlord saw the tenant at the residential property at the end of May 2011. I was satisfied the tenant has been sufficiently served with the hearing documents and I proceeded to hear from the landlord without the tenant present.

At the commencement of the hearing I determined that I was provided only 18 pages of the 24 pages the landlord submitted as evidence. I requested the landlord re-submit the evidence via fax and provide a copy of the fax confirmation showing the landlord sent 24 pages to the Residential Tenancy Branch on May 24, 2011. The landlord provided the requested evidence including the fax confirmation page. I accepted the re-submitted evidence in making this decision.

### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent?

Is the landlord entitled to a Monetary Order for unpaid rent?

### Background and Evidence

The tenancy agreement provides that the tenancy commenced July 1, 2010 and the tenant was required to pay rent of \$1,260.00 on the 1<sup>st</sup> day of every month. The tenant did not pay rent for May 2011 and on May 3, 2011 the landlord posted a 10 Day Notice to End Tenancy for Unpaid Rent (the Notice) on the tenant's door. The Notice indicates \$1,260.00 was outstanding as of May 1, 2011 and has a stated effective date of May 16, 2011.

The landlord testified that the tenant did not pay the outstanding rent and was still residing at the rental unit at the end of May 2011. The landlord has not determined whether the tenant has vacated the unit since then and requested an Order of Possession in the event he has not.

In making this application, the landlord is seeking to recover the unpaid rent for May 2011 in the amount of \$1,260.00. The landlord did not request authorization to retain the security deposit with this application and confirmed that the security deposit shall remain in trust, to be administered in accordance with the Act.

The landlord included the following documentary evidence for this proceeding. Copies of the tenancy agreement, the 10 Day Notice, and the registered mail receipt.

### Analysis

When a tenant receives a 10 Day Notice the tenant has five days to pay the outstanding rent to nullify the Notice or the tenant has five days to dispute the Notice by filing an Application for Dispute Resolution. If a tenant does not pay the outstanding rent or dispute the Notice within five days then, pursuant to section 46(5) of the Act, the tenant is conclusively presumed to have accepted the tenancy will end and must vacate the rental unit by the effective date of the Notice.

Since the tenant did not pay the outstanding rent or dispute the Notice I find the tenancy ended on May 16, 2011 and the landlord is entitled to regain possession of the rental unit. Provided with this decision is an Order of Possession effective two (2) days after service upon the tenant. If the tenant does not comply with the Order of Possession the landlord may enforce it in The Supreme Court of British Columbia as an Order of that court.

I find the landlord entitled to recover unpaid rent for the month of May 2011 in the amount of \$1,260.00. I also award the landlord the \$50.00 filing fee paid for this application. Therefore, I provide the landlord with a Monetary Order in the total amount of \$1,310.00 to serve upon the tenant.

The landlord must serve the Monetary Order upon the tenant and may enforce it in Provincial Court (Small Claims) as necessary.

Conclusion

The landlord has been provided an Order of Possession effective two (2) days after service upon the tenant. The landlord has been provided a Monetary Order in the total amount of \$1,310.00 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: June 10, 2011.

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Residential Tenancy Branch