



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, OPB, MNDC, MNSD

### Introduction

This matter dealt with an application by the Landlord for an Order of Possession and a Monetary Order to keep the Tenants' security deposit in partial payment of unpaid rent. The Landlord's agent said she served the Tenants with the Application and Notice of Hearing (the "hearing package") in person on May 26, 2011. Based on the evidence of the Landlord, I find that the Tenants were served with the Landlord's hearing package as required by s. 89 of the Act and the hearing proceeded in the Tenants' absence.

### Issue(s) to be Decided

1. Does the Landlord have grounds to end the tenancy?
2. Are there rent arrears and if so, how much?
3. Is the Landlord entitled to keep the Tenants' security deposit?

### Background and Evidence

This fixed term tenancy started on January 1, 2011 and was to expire on December 31, 2011. The Landlord's agent said the Tenants moved out on May 28, 2011 and returned the keys on June 1, 2011. Rent is \$1,200.00 per month payable in advance on the 1<sup>st</sup> day of each month. The Tenants paid a security deposit of \$600.00 at the beginning of the tenancy. The Landlord's agent said the Tenants put a stop payment on their rent cheque for May 2011 and as a result, rent remains unpaid for that month.

### Analysis

As the tenancy has ended, the Landlord's application for an Order of Possession is dismissed without leave to reapply. In the absence of any evidence from the Tenants to the contrary, I find that rent is unpaid for May 2011 and as a result, I also find that the Landlord is entitled to recover \$1,200.00. I order the Landlord pursuant to s. 38(4) of the Act to keep the Tenants' security deposit of \$600.00 in partial payment of the rent arrears and the Landlord will receive a Monetary Order for the balance owing of \$600.00.

Conclusion

The Landlord's application for an Order of Possession is dismissed without leave to reapply. A Monetary Order in the amount of **\$600.00** has been issued to the Landlord and a copy of it must be served on the Tenants. 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: June 16, 2011.

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Residential Tenancy Branch