



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNSD, FF

### Introduction

This hearing dealt with the landlord's application for an Order of Possession and authorization to retain the security deposit for unpaid rent. The tenant did not appear at the hearing. The landlord testified that he personally served the tenant with the hearing documents at the rental unit on June 20, 2011. I was satisfied the tenant was served in a manner that complies with the Act and I proceeded to hear from the landlord without the tenant present.

### Issue(s) to be Decided

1. Is the landlord entitled to an Order of Possession?
2. Is the landlord authorized to retain the security deposit?

### Background and Evidence

The landlord testified that the month-to-month tenancy commenced November 1, 2008 and the tenant paid a \$375.00 security deposit. The tenancy agreement required the tenant to pay rent of \$750.00 on the 1<sup>st</sup> of every month and the rent was increased to \$775.00 during the tenancy.

I heard that the landlord personally served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent (the Notice) on June 8, 2011 at the rental unit. The Notice indicates rent of \$775.00 was outstanding as of June 1, 2011 and has an effective date of June 18, 2011.

The landlord testified that the tenant did not pay the rent after he served her with the Notice and paid nothing towards July's rent. The landlord also stated that he recently went to the rental unit and was told by an occupant that the tenant has moved out. The occupant was still residing in the rental unit.

The landlord provided a copy of the 10 Day Notice as evidence prior to this hearing. Since the landlord had indicated the security deposit was \$362.50 in making this

application I requested the landlord provide a copy of the tenancy agreement and Notice of Rent Increase to me. The landlord provided these documents for my consideration.

### 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 June 18, 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. I order the landlord may serve this Order of Possession by personal service upon the tenant or the tenant's occupant, or by posting it on the door of the rental unit. If the tenant and occupant(s) do 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.

Based on the tenancy agreement and the landlord's testimony I find the security deposit held in trust for the tenant is \$375.00 plus accrued interest since November 1, 2008. I find the landlord entitled to recover at the least this amount for unpaid rent for the month of June 2011 and the filing fee for this application. Therefore, I grant the landlord's request to retain the security deposit and interest.

### Conclusion

The landlord is provided an Order of Possession effective two (2) days after service upon the tenant or the tenant's occupant. The landlord is authorized to retain the tenant's security deposit and accrued interest for unpaid rent for the month of June 2011 and the filing fee paid for this application.

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 14, 2011.

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Residential Tenancy Branch