



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes:**

OPR; MNR; FF

### **Introduction**

This is the Landlord's application for an Order of Possession; a Monetary Order for unpaid rent; and to recover the cost of the filing fee from the Tenant.

The parties gave affirmed testimony at the Hearing.

### **Issues to be Decided**

- Is the Landlord entitled to an Order of Possession pursuant to the provisions of Section 55 of the Act?
- Is the Landlord entitled to a Monetary Order pursuant to the provisions of Section 67 of the Act?

### **Background and Evidence**

The Landlord's agent gave the following testimony and evidence:

This tenancy started on August 1, 1997. A copy of the tenancy agreement was provided in evidence. Monthly rent is \$777.00 per month, due the first day of each month. The Tenant fell behind in rent payments and the Landlord issued a Notice to End Tenancy for Unpaid Rent (the "Notice") in the amount of \$2,393.00 on June 2, 2011. The Landlord posted the Notice to the Tenant's door on June 2, 2011. A copy of the Notice was provided in evidence.

The Tenant paid the Landlord \$700.00 on July 8, 2011, but now owes an additional \$777.00 for July's rent.

The Landlord seeks a monetary award, calculated as follows:

Unpaid rent as at June 2, 2011	\$2,393.00
Less \$700.00 paid July 8, 2011	-\$700.00
Plus July rent	<u>\$777.00</u>
Total	\$2,470.00

The Tenant gave the following testimony:

The Tenant does not dispute that he currently owes the Landlord \$2,470.00, and agreed with the Landlord's agent's testimony. The Tenant stated that he understood when he paid the Landlord \$700.00 on July 8, 2011, that the Landlord was not agreeing to reinstate the tenancy. The Tenant testified that he has recently secured a job and that he expects to be able pay the remainder of the outstanding rent in full on July 15, 2011.

The Landlord's agent gave the following response:

The Landlord seeks an Order of Possession and a Monetary Order. The Landlord's agent stated that if the Tenant pays the full amount owing on July 15, 2011, the Landlord will not enforce the Orders.

### **Analysis**

Based on the testimony of both parties, I accept that the Landlord served the Tenant with the Notice by posting it to the Tenant's door on June 2, 2011. Pursuant to the provisions of Section 90 of the Act, service in this manner is deemed to be effected three days after posting the Notice. The Tenant did not pay the arrears, or file for dispute resolution, within 5 days of receiving the Notice. Therefore, pursuant to Section 46(5) of the Act, the Tenant is conclusively presumed to have accepted that the tenancy

ended on June 15, 2011. The Landlord is entitled to an Order of Possession and I make that Order.

Based on the testimony of both parties, the Landlord's agent has established a monetary claim for unpaid rent and loss of revenue in the total amount of \$2,470.00.

The Landlord has been successful in its application and is entitled to recover the cost of the \$50.00 filing fee from the Tenant.

### **Conclusion**

I hereby provide the Landlord an Order of Possession effective **2 days after service of the Order upon the Tenant**. This Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

I hereby provide the Landlord a Monetary Order in the amount of **\$2,520.00** for service upon the Tenant. This Order may be filed in the Provincial Court of British Columbia (Small Claims) 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: July 12, 2011.

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Residential Tenancy Branch