



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, MNSD, FF

### Introduction

This hearing dealt with an application by the landlord for an order of possession for unpaid rent, a monetary order for unpaid rent, to keep all or part of the security deposit and recovery of the filing fee.

The landlord participated in the conference call hearing but the tenant did not. The landlord presented evidence that the tenant was served with the application for dispute resolution and notice of hearing by registered mail. I found that the tenant had been properly served with notice of the landlord's claim and the date and time of the hearing and the hearing proceeded in their absence.

### Issue(s) to be Decided

Is the landlord entitled to any of the above under the Act.

### Background and Evidence

This tenancy began May 1, 2008 with monthly rent of \$925.00. On June 16, 2011 the landlord served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent.

The landlord testified that in May 2011 the tenant deducted \$424.00 for utilities owed by the downstairs tenant and provided the landlord with a rent cheque for \$530.00 which was returned NSF. The tenant paid the \$945.00 June 2011 rent in full all be it late.

The tenant then gave the landlord a cheque for \$945.00 for July 2011 and the landlord advised the tenant that he would no longer accept personal cheques from her. On July 7, 2011 the tenant then provided a money order for \$945.00 to the landlord and demanded her personal cheque back. When the landlord could not readily locate the tenant's personal cheque, the tenant's boyfriend became threatening and demanded the \$945.00 money order back and the landlord returned it to him to avoid any further confrontation. The landlord stated that a few days later he located the tenant's personal

cheque and returned it to the tenant however the tenant did not give the landlord the money order back and the July 2011 rent went unpaid.

The landlord stated that the tenant then gave him the money order on August 2, 2011 which was used to pay the August rent. The landlord stated that he did provide the tenant with a receipt stating for 'use and occupancy only'.

The landlord stated that the tenant advised him that she would be moving out in or by September 2011 but did not give the landlord notice in writing or provide the landlord with a specific date for vacating.

The landlord in this application is seeking \$1484.00 compensation in unpaid rent and \$75.00 in NSF and late fee charges for May and July 2011.

As the tenant remains in the rental unit the landlord has requested an order of possession effective 2 days after service upon the tenant. The landlord stated that he would enforce the order of possession at his discretion and see if he could possibly work out a mutual end of tenancy date if the tenant pays all the money owed to the landlord.

### Analysis

Based on the documentary evidence and undisputed testimony of the landlord I find that the tenant was properly served with a notice to end tenancy for non-payment of rent. The tenant did not pay the outstanding rent within 5 days of receiving the notice and did not apply for dispute resolution to dispute the notice and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice. Based on the above facts I find that the landlord is entitled to an order of possession and a monetary order for unpaid rent.

The landlord has also provided the tenant with a receipt stating 'for use and occupancy only' for any rent received after issuance of the notice which leaves the notice to end tenancy in effect.

Accordingly I find that the landlord is entitled to a monetary order for \$1559.00.

As the landlord has been successful in their application the landlord is entitled to recovery of the \$50.00 filing fee.

### Conclusion

I hereby grant the landlord an **Order of Possession**, effective **2 days** after service of the Order upon the tenant. This Order must be served on the tenant and may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

I find that the landlord has established a monetary claim for \$1559.00 in unpaid rent, NSF and late fees. The landlord is also entitled to recovery of the \$50.00 filing fee and I hereby grant the landlord a monetary order under section 67 for the amount of **\$1609.00**.

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: August 4, 2011.

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Residential Tenancy Branch