



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** OPR; MNR; MNDC, MNSD; FF

### **Introduction**

This is the Landlord's application for an Order of Possession; a Monetary Order for unpaid rent and loss of rent, to retain the security deposit in partial satisfaction of its monetary claim; and to recover the cost of the filing fee from the Tenant.

The Landlord's agent gave affirmed testimony at the Hearing.

The Landlord's agent testified that the Notice of Hearing documents and copies of the Landlord's documentary evidence were couriered to the Tenant at to the rental unit on July 18, 2011. The Landlord provided a copy of the courier waybill and proof of delivery document in evidence. The proof of delivery document indicates that the documents were delivered to the Tenant on July 19, 2011. Based on the documentary evidence provided, and pursuant to the provisions of Section 72(2)(c) of the Act, I am satisfied that the Notice of Hearing documents and copies of the Landlord's documentary evidence were sufficiently given for the purposes of the Act. The Tenant did not sign into the teleconference and the Hearing proceeded in her absence.

### **Issues to be Decided**

- Is the Landlord entitled to an Order of Possession?
- Is the Landlord entitled to a Monetary Order for unpaid rent and loss of income?

### **Background and Evidence**

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

Monthly rent is \$882.36, due the first day of each month. The Tenant paid a

security deposit in the amount of \$412.50 on June 1, 2007. A copy of the tenancy agreement was provided in evidence.

On June 5, 2011, the Landlord's agent served the Tenant with a 10 Day Notice to End Tenancy for Unpaid Rent, by posting the Notice on the Tenant's door at the rental unit. The Landlord provided a Proof of Service document which was signed by a witness.

The Notice to End Tenancy indicates that the Tenant failed to pay rent in the amount of \$505.26 that was due on June 1, 2011. The Landlord's agent testified that \$352.10 was paid on June 1, 2011 and that the Tenant paid a further \$375.00 on June 30, 2011, but the Landlord did not reinstate the tenancy, and provided the Tenant with a receipt for "use and occupancy only". The Landlord's agent stated that the balance of \$130.26 remains outstanding for June's rent and that no rent has been paid for July or August, 2011. The Landlord's agent requested a monetary order for unpaid rent, loss of income and late fees for the month of June, 2011, as follows:

Unpaid rent as at June 1, 2011	\$505.26
Less amount paid for use and occupancy on	
June 30, 2011	-\$375.00
Loss of revenue for July, 2011	\$882.36
Loss of revenue for August, 2011	\$882.36
Late fee for June, 2011	<u>\$25.00</u>
TOTAL AMOUNT	\$1,919.98

### **Analysis**

I accept that the Landlord served the Tenant with the Notice to End Tenancy by posting the Notice on the Tenant's door on June 5, 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 documents. The Tenant did not pay all of the arrears, or file for dispute resolution, within 5 days of receiving the documents. Therefore, pursuant to Section 46(5) of the

Act, the Tenant is conclusively presumed to have accepted that the tenancy ended on June 18, 2011. The Landlord is entitled to an Order of Possession and I make that Order, effective 2 days after service of the Order upon the Tenant.

The tenancy agreement contains a clause allowing for late fees in the amount of \$25.00, which is within the amount allowed by the regulations. I find that the Landlord's agent has established a monetary award for unpaid rent, loss of revenue and late fees for the month of June, 2011 in the total amount of \$1,919.98.

Pursuant to the provisions of Section 72(2)(b) of the Act, the Landlord may apply the security deposit and accrued interest towards partial satisfaction of the Landlord's monetary award. Interest has accrued on the security deposit in the amount of \$9.87.

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

The Landlord has established a monetary award as follows:

Unpaid rent, loss of revenue and late fees	\$1,919.98
Subtotal	\$1,969.98
Less security deposit and interest (\$412.50 + \$9.87)	-\$422.37
<b>TOTAL AMOUNT DUE TO THE LANDLORD AFTER SET-OFF</b>	<b>\$1,547.61</b>

### **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 **\$1,547.61** 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: August 17, 2011.

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Residential Tenancy Branch