



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, FF

### Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order of Possession - Section 55;
2. A Monetary Order for unpaid rent - Section 67; and
3. An Order to recover the filing fee for this application - Section 72.

I accept the Landlord’s evidence that the Tenant was served with the application for dispute resolution and notice of hearing by registered mail in accordance with Section 89 of the Act. The Tenant did not participate in the conference call hearing.

The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

### Preliminary Matters

At the onset of the Hearing, it was noted that two of the persons named as Parties to the dispute were not Tenants as named on the lease agreement but were occupants. AS the occupants are not Parties to the dispute, the application has been amended to only include the persons named on the lease as Tenants.

During the Hearing, the Landlord withdrew its claim for the unpaid amount of \$89.00 arising from a charge back agreement made an unknown number of years ago.

### Issue(s) to be Decided

Is the notice to end tenancy valid?

Is the Landlord entitled to an Order of Possession?

Is the Landlord entitled to the monetary amounts claimed?

### Background and Evidence

The tenancy began on October 1, 2007. At the outset of the tenancy, the Landlord collected no security deposit from the Tenants. For the period May 1, 2010 to April 31, 2011, the Tenants' rent was subsidized with a payable amount being \$319.00. The Tenants were requested to file an annual declaration of income for the period commencing May 1, 2011 and the Tenants' rent subsequently was increased to the market value of \$650.00. The Landlord received the Tenants' declaration of annual income on July 1, 2011 and the Landlord states that the rent was again subsequently subsidized leaving the amount of \$343.00 payable as rent commencing July 1, 2011. The Landlord states that the Tenants did not qualify for the subsidy for May and June 2011 as they had employment income during this period which disqualified them for a retroactive adjustment for subsidized rent.

The Tenants failed to pay rent for the months of May and June 2011 and on June 10, 2011 the Landlord served the Tenant by registered mail with a notice to end tenancy for non-payment. Materials on file indicate this mail was received by the Tenants on July 11, 2011. On July 20, 2011, the Landlord received a direct deposit from the Tenants in the amount of \$319.00. A receipt was issued to the Tenants for use and occupancy only. The Tenant has not filed an Application for Dispute Resolution, has not moved out of the unit and has failed to pay the rent for August 2011. The Tenant also has arrears of \$12.00 for the month of April 2011. The Landlord claims the following rental arrears:

April	\$12.00
May and June (650.00 x 2)	1,300.00
July and August (343.00 x 2)	686.00
<b>Total Claim</b>	<b>\$1,998.00</b>

### Analysis

Section 46 of the Act requires that upon receipt of a Notice to End Tenancy for non-payment of rent the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If the tenant does neither of these two things, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice.

Based on the Landlord's evidence I find that the Tenant was served with a notice to end tenancy for non-payment of rent and I find the notice to be valid. The Tenant has not filed an application to dispute the notice and has not paid the outstanding rent. Given these facts, I find that the Landlord is entitled to an **Order of Possession**. I also find that the Landlord has established a monetary claim for **\$1,998.00** in rental arrears. The Landlord is entitled to recovery of the **\$50** filing fee, for a total entitlement of **\$2,048.00**.

### Conclusion

I **grant** an Order of Possession to the Landlord. The Tenant must be served with this **Order of Possession**. Should the Tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

I **grant** the Landlord an order under Section 67 of the Act for the balance due of **\$2,048.00**. If necessary, this order may be filed in the Small Claims Court 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 25, 2011.

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Residential Tenancy Branch