



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, MNSD, MNDC, FF

### Introduction

This hearing dealt with the landlords' application for an Order of Possession for unpaid rent and a Monetary Order for unpaid rent and loss of rent; as well as, authorization to retain the security deposit and pet deposit. The tenants did not appear at the hearing. The landlords testified that each tenant was served with the hearing documents via registered mail sent to the rental unit on August 26, 2011 and that the tenants still occupy the rental unit. The landlords provided two registered mail tracking numbers as proof of service. Having been satisfied the tenants were sufficiently served with the hearing documents I proceeded to hear from the landlords without the tenants present.

### Issue(s) to be Decided

1. Are the landlords entitled to an Order of Possession for unpaid rent?
2. Are the landlords entitled to a Monetary Order for unpaid rent and loss of rent for August and September 2011?
3. Are the landlords authorized to retain the tenants' security deposit and pet deposit?

### Background and Evidence

The landlords provided a written tenancy agreement showing that the tenancy commenced May 1, 2010 and the tenants paid \$1,150.00 for a security deposit and pet deposit. The tenants are required to pay rent of \$1,150.00 on the 1<sup>st</sup> day of every month. The rent cheque for August 2011 was returned and the landlords posted a 10 Day Notice to End Tenancy for Unpaid Rent (the Notice) on the tenants' door on August 17, 2011. The Notice indicates \$1,150.00 was outstanding as of August 1, 2011 and has a stated effective vacancy date of August 27, 2011. The tenants did not pay the outstanding rent or dispute the Notice but continue to occupy the rental unit.

Provided as documentary evidence for this proceeding were copies of the tenancy agreement; 10 Day Notice; and, proof of service of the 10 Day Notice.

### 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 Notice was posted on the door the effective date of the Notice has been automatically changed to read August 30, 2011 pursuant to section 53 of the Act.

Since the tenants did not pay the outstanding rent or dispute the Notice I find the tenancy ended on August 30, 2011 and the landlords are entitled to regain possession of the rental unit. Provided with this decision is an Order of Possession effective two (2) days after service upon the tenants. If the tenants do not comply with the Order of Possession the landlords may enforce it in The Supreme Court of British Columbia as an Order of that court.

I find the landlords entitled to recover unpaid rent for the month of August 2011 and since the tenants have not vacated the rental unit I also award the landlords loss of rent for the month of September 2011. I further award the landlords the filing fee paid for this application. I authorize the landlords to retain the security deposit and pet deposit in partial satisfaction of the amounts awarded to the landlords.

In light of the above, the landlords are provided a Monetary Order calculated as follows:

August 2011 rent	\$ 1,150.00
September 2011 loss of rent	1,150.00
Filing fee	50.00
Less: security deposit and pet deposit	<u>(1,150.00)</u>
Monetary Order	\$ 1,200.00

The landlords must serve the Monetary Order upon the tenants and may enforce it in Provincial Court (Small Claims) as necessary.

### Conclusion

The landlords have been provided an Order of Possession effective two (2) days after service. The landlords have been authorized to retain the security deposit and pet

deposit. The landlords have also been provided a Monetary Order for the balance outstanding of \$1,200.00 to serve upon the tenants.

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: September 27, 2011.

---

Residential Tenancy Branch