



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Dispute Codes:

OPR, MNR, MNDC, FF

### Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord has made application for an Order of Possession for Unpaid Rent, a monetary Order for unpaid rent and money owed as compensation for damage or loss, and to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution. At the hearing the Landlord withdrew the claim for an Order of Possession, as the rental unit has been vacated.

The Landlord stated that copies of the Application for Dispute Resolution and Notice of Hearing were sent to the Tenant, via registered mail, at the rental unit on August 09, 2011. The Landlord submitted Canada Post documentation that corroborates this statement. These documents are deemed to have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*, however the Tenant did not appear at the hearing.

The Landlord was not permitted to present evidence regarding damages to the rental unit as he had not applied for compensation for damages to the rental unit.

### Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to a monetary Order for unpaid rent/loss of revenue and to recover the cost of filing the Application for Dispute Resolution, pursuant to sections 67 and 72 of the *Residential Tenancy Act (Act)*.

### Background and Evidence

The Landlord stated that this tenancy began on July 01, 2011 and that the Tenant was required to pay monthly rent of \$750.00 on the first day of each month. A tenancy agreement was submitted in evidence that is consistent with this testimony.

The Landlord stated that the Tenant did not pay rent for August of 2011.

The Landlord stated that on August 02, 2011 he personally served the Tenant with a Ten Day Notice to End Tenancy for Unpaid Rent, which had an effective date of August

12, 2011. The Notice declared that the Tenant owed \$750.00 in rent that was due on August 02, 2011.

The Landlord stated that the Tenant vacated the rental unit on August 19, 2011; that he began advertising the rental unit on August 19, 2011; and that he has been unable to rent the unit for September because he was unable to advertise during the first part of the month, which is when most tenants are seeking new accommodation. The Landlord is seeking compensation for loss of revenue for September of 2011.

### Analysis

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that the Tenant entered into a tenancy agreement with the Landlord that required the Tenant to pay monthly rent of \$750.00 on the first day of each month.

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that the Tenant did not pay rent for August of 2011. As he was required to pay rent on August 01, 2011, pursuant to section 26(1) of the *Act*, I find that the Tenant must pay \$750.00 in outstanding rent to the Landlord.

If rent is not paid when it is due, a tenancy may be ended pursuant to section 46 of the *Act*. In the absence of evidence to the contrary, I find that the Tenant was served with a Notice to End Tenancy on August 02, 2011 which directed the Tenant to vacate the rental unit by August 12, 2011, pursuant to section 46 of the *Act*.

Section 46 of the *Act* stipulates that a Tenant has five (5) days from the date of receiving the Notice to End Tenancy to either pay the outstanding rent or to file an Application for Dispute Resolution to dispute the Notice. In the circumstances before me I have no evidence that the Tenant exercised either of these rights and, pursuant to section 46(5) of the *Act*, I find that the Tenant accepted that the tenancy has ended on August 12, 2011 but that he did not vacate the rental unit until August 19, 2011.

I find that the Tenant fundamentally breached the tenancy agreement when he did not pay rent when it was due. I find that the Tenant fundamentally breached section 46(5) of the *Act* when he did not vacate the rental unit by the effective date of the Ten Day Notice to End Tenancy. I find that his continued occupancy of the rental unit made it difficult for the Landlord to find new tenants for September 01, 2011 as the Landlord was denied the opportunity to advertise the rental unit during the early part of August, when most tenants are seeking new accommodations. I therefore find that the Tenant must compensate the Landlord for the loss of revenue he experienced for the first two weeks of September.

I decline to award compensation for the last two weeks of September, as it is entirely possible that the Landlord could find a new tenant for the last two weeks of September

I find that the Landlord's application has merit and that the Landlord is entitled to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

Conclusion

I find that the Landlord has established a monetary claim, in the amount of \$1,175.00, which is comprised of \$750.00 in unpaid rent, \$375.00 in loss of revenue, and \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution.

Based on these determinations I grant the Landlord a monetary Order for the amount of \$1,175.00. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia 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: September 09, 2011.

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Residential Tenancy Branch