



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPR, MND, MNR, MNSD, MNDC, FF

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent, for damage to the rental unit, and for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I waited until 11:11 a.m. in order to enable her to connect with this hearing. The landlord attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions. The landlord testified that she placed one copy of the 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) under the tenant's door and posted another copy on the tenant's door on October 3, 2011. While the copy placed under the door did not comply with the *Act*, I find that the copy posted on the tenant's door was in compliance with the *Act*. The landlord testified that she handed a copy of her dispute resolution hearing package to the tenant on October 20, 2011, accompanied by the maintenance person for this rental property. I am satisfied that these documents were served to the tenant in accordance with the *Act*.

The landlord asked for permission to amend the amount of the requested monetary award from \$1,125.00 to \$2,200.00 to reflect the tenant's failure to pay rent for November 2011 or the \$25.00 late fee for failing to do so. I agreed to this request to amend the amount of the monetary award requested by the landlord in this application.

### Issues(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent? Is the landlord entitled to a monetary award for unpaid rent and for losses arising out of this tenancy? Is the landlord entitled to retain all or a portion of the tenant's security deposit in partial

satisfaction of the monetary award requested? Is the landlord entitled to recover the filing fee for this application from the tenant?

### Background and Evidence

This periodic tenancy commenced on January 1, 2011. Monthly rent is set at \$1,050.00, payable in advance on the first of each month. The landlord continues to hold the tenant's \$525.00 security deposit paid on December 29, 2010.

The landlord testified that the tenant has not paid any portion of the \$1,050.00 in outstanding rent for October 2011 that was identified in the 10 Day Notice.

### Analysis

The tenant failed to pay the October 2011 rent within five days of receiving the 10 Day Notice. The tenant has not made application pursuant to section 46(4) of the *Act* within five days of receiving the 10 Day Notice. In accordance with section 46(5) of the *Act*, the tenant's failure to take either of these actions within five days led to the end of his tenancy on the effective date of the notice. In this case, this required the tenant to vacate the premises by October 16, 2011. As that has not occurred, I find that the landlord is entitled to a 2 day Order of Possession. The landlord will be given a formal Order of Possession which must be served on the tenant. If the tenant does not vacate the rental unit within the 2 days required, the landlord may enforce this Order in the Supreme Court of British Columbia.

Based on the undisputed evidence submitted by the landlord, I am satisfied that the landlord is entitled to a monetary award of \$1,050.00 for each of October and November 2011, plus \$25.00 late fees for these months. Since the landlord has been successful in this application, I allow the landlord to recover the \$50.00 filing fee for this application from the tenant. I allow the landlord to retain the tenant's security deposit plus interest in partial satisfaction of the monetary award issued in this decision. No interest is payable over this period.

### Conclusion

I provide the landlord with a formal copy of an Order of Possession to take effect within 2 days of the landlord's service of this notice to the tenant(s). Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I issue a monetary Order in the following terms in the landlord's favour to enable the landlord to recover unpaid rent and losses arising out of this tenancy, to recover the

filing fee for this application, and to retain the tenant's security deposit in partial satisfaction of this monetary Order:

Item	Amount
Unpaid October 2011 Rent	\$1,050.00
Late Fee October 2011	25.00
Unpaid November 2011 Rent	1,050.00
Late Fee November 2011	25.00
Less Security Deposit	-525.00
Recovery of Filing Fee for this application	50.00
<b>Total Monetary Order</b>	<b>\$1,675.00</b>

The landlord is provided with these Orders in the above terms and the tenant must be served with a copy of these Orders as soon as possible. Should the tenant fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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: November 10, 2011

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Residential Tenancy Branch