



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, 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 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 11:10 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 he sent the tenant the 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) by registered mail on October 5, 2011. He provided a copy of the Canada Post Tracking Number to confirm this mailing. He also submitted a copy of Canada Post records that showed that the 10 Day Notice was returned to the landlord undelivered on October 25, 2011. The landlord testified that he sent the tenant a copy of the landlord's dispute resolution hearing package by registered mail on November 4, 2011. He provided a copy of the Canada Post Tracking Number to confirm this mailing. I am satisfied that the landlord served these documents in accordance with the *Act*.

### 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 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 tenancy commenced as a fixed term tenancy on March 15, 2010. At the expiration of the initial term of the tenancy on August 15, 2010, the tenancy converted to a periodic tenancy. Monthly rent is set at \$1,300.00, payable in advance on the first of each month. The tenant is responsible for heat and hydro. The landlord continues to hold the tenant's \$650.00 security deposit paid on February 6, 2010.

The landlord applied for an Order of Possession and a monetary award of \$4,000.00 for the following unpaid rent:

<b>Item</b>	<b>Amount</b>
Unpaid Portion of August 2011 Rent	\$100.00
Unpaid September 2011 Rent	1,300.00
Unpaid October 2011 Rent	1,300.00
Loss of November 2011 Rent	1,300.00
<b>Total Monetary Award Requested</b>	<b>\$4,000.00</b>

The landlord testified that the tenant has not paid any rent since the 10 Day Notice was issued to her.

Analysis - Order of Possession

The tenant failed to pay any portion of the \$1,400.00 in rent identified as owing in the 10 Day Notice within five days of being deemed to have been served with that 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 her tenancy on the corrected effective date of the notice. In this case, this required the tenant to vacate the premises by October 20, 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.

Analysis – Monetary Order

Based on the undisputed evidence provided by the landlord, I find that the landlord is entitled to a monetary award of \$4,000.00 for unpaid rent owing from August until November 2011, as claimed by the landlord. Since the landlord has been successful in this application, I find that the landlord is entitled 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 applicable 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 find that the landlord is entitled to a monetary Order in the following terms which allows the landlord to recover unpaid rent and the filing fee for this application, and to retain the tenant's security deposit in partial satisfaction of the monetary award issued in this decision:

<b>Item</b>	<b>Amount</b>
Unpaid Portion of August 2011 Rent	\$100.00
Unpaid September 2011 Rent	1,300.00
Unpaid October 2011 Rent	1,300.00
Loss of November 2011 Rent	1,300.00
Less Security Deposit	-650.00
Recovery of Filing Fee for this application	50.00
<b>Total Monetary Order</b>	<b>\$3,400.00</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 23, 2011

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Residential Tenancy Branch