



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, MNDS, MNDC, 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;
3. An Order to retain the security deposit - Section 38;
4. A Monetary Order for compensation for loss – Section 67; and
5. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenant were each given full opportunity to be heard, to present evidence and to make submissions.

### 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 December 1, 2011. Rent in the amount of \$838.00 is payable in advance on the first day of each month. At the outset of the tenancy, the Landlord collected a security deposit from the Tenants in the amount of \$419.00. The Tenants failed to pay full rent for the month of January 2012 and on January 6, 2011 the Landlord personally served the Tenants with a notice to end tenancy for non-payment of rent. The Tenant who appeared at the Hearing stated that her portion of January 2012 rent in the amount of \$388.00 was paid and that she further paid the amount of \$388.00

on January 25, 2011 for her portion of the February 2012 rent. No receipt was issued however the Landlord states that this amount was applied to outstanding January rent leaving the amount of \$62.00 remaining. The Landlord states that the Tenants failed to pay February rent. The Landlord claims the amount of \$900.00 (\$62.00 + 838.00) for outstanding rent.

The Tenant did not file an Application for Dispute Resolution and has not moved out of the unit. The Tenant states that she was living in the unit prior to the current tenancy agreement with a different roommate and with rent payable in the amount of \$776.00. The Tenant denies that she signed a new tenancy agreement with the new roommate and denies knowing that the rent was increased from the prior agreement. The Landlord states that the Tenant did sign the tenancy agreement.

### 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. Further co-tenants are jointly and severally responsible for meeting the terms of a tenancy agreement, including the payment of rent.

Based on the Landlord's evidence I find that the Tenants were served with a notice to end tenancy for non-payment of rent and I find the notice to be valid. The Tenants have not filed an application to dispute the notice and has not paid the outstanding rent.

Although the Tenant states that she did not sign the current tenancy agreement, given the evidence of the Landlord, I find that the Landlord has substantiated that the Tenant did sign the current tenancy agreement. Further, although the Tenant states that her portion of the rent was paid for both January and February 2012, as both Tenants are responsible for full payment of rent, I find that the Tenants failed to full rent for January 2012 and failed to pay full rent for February 2012. 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 **\$900.00** in unpaid rent. The Landlord is also entitled to recovery of the \$50.00 filing fee for a total monetary amount of **\$950.00**. Setting the security deposit plus interest in the amount of \$419.00 off the entitlement leaves the amount of **\$531.00** payable by the Tenant to the Landlord.

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 order** that the Landlord retain the **deposit** and interest of \$325.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the balance due of **\$525.00**. 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: February 02, 2012.

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Residential Tenancy Branch