



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNR, FF

### Introduction

This hearing dealt with an application by the landlord for a monetary order for unpaid rent and recovery of the filing fee.

The landlord participated in the conference call hearing but the tenant did not. The landlord presented evidence that the tenant was served with the application for dispute resolution by posting to the door with a witness and the landlord was able to call the tenant and confirm receipt of the documents. I found that the tenant had been properly served with notice of the landlord's claim and the date and time of the hearing and the hearing proceeded in their absence.

### Issue(s) to be Decided

Is the landlord entitled to any of the above under the Act.

### Background and Evidence

This tenancy began July 1, 2010 with monthly rent of \$1200.00 and the tenants paid a security deposit of \$600.00.

On March 2, 2012 the landlord served the tenants with a 10 Day Notice to End Tenancy for Unpaid Rent, the tenants have not filed to dispute this notice.

The landlord testified that the tenant paid \$500.00 towards the March rent that is owed and now owes a balance of \$100.00 for March 2012. The landlord stated that the tenant has not paid any of the April 2012 rent and owes the full amount of \$1200.00. The landlord stated that when the tenant paid the \$500.00 on March 24, 2012 he provided the tenant with a receipt stating 'for use and occupancy only'.

The landlord stated that he believes that the tenant has also now moved a new person into the rental unit who is not on tenancy agreement and has no right to occupy the rental unit.

The landlord in this application is seeking an order of possession for unpaid rent effective upon the tenant and all occupants 2 days after service. The landlord is also seeking a monetary in the amount of \$1350.00 for unpaid rent.

### Analysis

Section 46(4) of the Act states that **within 5 days of receiving** a Notice to End Tenancy for Unpaid Rent or Utilities a Tenant must pay the overdue rent or apply for dispute resolution. If the Tenant fails to do either of these things, then under section 46(5) of the Act, they are conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice and they must vacate the rental unit at that time.

Based on the foregoing, I find that the tenant is conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice and I find that the landlord is entitled to an order of possession and a monetary order for unpaid rent.

Accordingly I find that the landlord is entitled to a monetary order for \$1350.00.

As the landlord has been successful in their application the landlord is entitled to recovery of the \$50.00 filing fee.

### Conclusion

I hereby grant the landlord an **Order of Possession**, effective **2 days** after service of the Order upon the tenant(s) and all occupants. This Order must be served on the tenant(s) and may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

I find that the landlord has established a monetary claim for \$1350.00 in unpaid rent. The landlord is also entitled to recovery of the \$50.00 filing fee. I grant the landlord a monetary order under section 67 for the amount of **\$1400.00**. If the amount is not paid by the tenant(s), the Order may be filed in the Provincial (Small Claims) Court of British Columbia 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: April 2, 2012

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Residential Tenancy Branch