



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPR, MNR, MNSD, 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 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 his filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I waited until 11:12 a.m. in order to enable the tenant to connect with this hearing scheduled for 11:00 a.m. 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 a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) was posted on the tenant's door on March 8, 2012. The landlord testified that a copy of the landlord's dispute resolution hearing package was sent to the tenant by registered mail on March 23, 2012. The landlord entered into written evidence a copy of the Canada Post Tracking Number and Customer Receipt. I am satisfied that the landlord served these documents to the tenant in accordance with the *Act*.

The landlord requested that the amount of the monetary award requested be increased by \$1,123.65 to reflect the tenant's non-payment of monthly rent owing for April 2012. I agreed to amend the amount of the landlord's requested monetary award from \$1,148.65 to \$2,272.30 plus the landlord's \$50.00 filing fee.

### 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? 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 six-month fixed term tenancy on March 1, 2011. At the expiration of the first term this converted to a periodic tenancy. Monthly rent until March 1, 2012 was set at \$1,100.00, payable in advance on the first of each month. As of March 1, 2012, the monthly rent increased to \$1,123.65. The landlord continues to hold the tenant's \$550.00 security deposit paid on January 18, 2011.

The landlord issued the 10 Day Notice when the tenant failed to pay monthly rent plus an NSF fee for March 2012. The landlord provided a tenant ledger outlining the outstanding rent and testified that the tenant has not made any payments to the landlord since mid- February 2012.

### Analysis

The tenant failed to pay the \$1,148.65 owing from this tenancy in full within five days of being deemed to have received the 10 Day Notice on March 11, 2012. 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 this tenancy on the effective date of the notice, requiring the tenant to vacate the premises by March 21, 2012. 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 presented by the landlord, I find that the landlord is entitled to a monetary award of \$1,123.65 for unpaid rent owed for March 2012, a \$25.00 NSF Service charge as set out in the tenancy agreement, and a \$1,123.65 monetary award for unpaid rent owed for April 2012.

I allow the landlord to retain the tenant's security deposit plus applicable interest in partial satisfaction of this monetary award. No interest is payable over this period. As the landlord has been successful in this application, I allow the landlord to recover the \$50.00 filing fee from the tenant.

### 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 landlord's favour under the following terms which allows the landlord to recover unpaid rent and an NSF charge, the landlord's filing fee and to retain the tenant's security deposit:

<b>Item</b>	<b>Amount</b>
Unpaid March 2012 Rent plus NSF Fee	\$1,148.65
Unpaid April 2012 Rent	1,123.65
Less Security Deposit	-550.00
Recovery of Filing Fee for this application	50.00
<b>Total Monetary Order</b>	<b>\$1,772.30</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: April 12, 2012

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Residential Tenancy Branch