



# Dispute Resolution Services

Page: 1

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 tenants' 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 tenants pursuant to section 72.

The tenants did not attend this hearing, although I waited until 9:42 a.m. in order to enable them to connect with this hearing scheduled for 9:30 a.m. The landlord attended the hearing and was given a full opportunity to be heard, to present sworn testimony and to make submissions. The landlord testified that the landlord's most recent 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) was posted on the tenants' door on March 6, 2012. The landlord testified that the landlord's property manager, MW, handed the tenants a copy of the landlord's dispute resolution hearing package at 9:20 a.m. on March 30, 2012. Based on the landlord's sworn testimony, I am satisfied that the landlord served these documents to the tenants 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? Is the landlord entitled to retain all or a portion of the tenants' security deposit in partial satisfaction of the monetary award requested? Is the landlord entitled to recover the filing fee for this application from the tenants?

### Background and Evidence

This periodic tenancy commenced on December 19, 2009. Monthly rent is currently set at \$750.00, payable in advance on the first of the month. The landlord continues to hold the tenants' \$320.00 security deposit paid on or about December 19, 2009.

The landlord testified that the tenants have not paid any portion of the \$1,550.00 identified as outstanding rent in the 10 Day Notice. The landlord submitted written

evidence in the way of a series of 10 Day Notices issued to the tenants from October 2011 until the last one issued on March 6, 2012. The landlord also provided written evidence of the tenant's rent ledger, confirming that there was \$2,300.00 in outstanding rent as of April 1, 2012, when rent for April 2012 became due.

### Analysis

The tenants failed to pay all of the \$1,550.00 identified as outstanding rent owing within five days of being deemed to have received the 10 Day Notice in March 2012. The tenants have not made application pursuant to section 46(4) of the *Act* within five days of being deemed to have received the 10 Day Notice on March 9, 2012. In accordance with section 46(5) of the *Act*, the tenants' failure to take either of these actions within five days led to the end of his tenancy on the corrected effective date of the notice. In this case, this required the tenants to vacate the premises by March 19, 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(s). If the tenants do 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 provided by the landlord, I find that the landlord is entitled to a monetary award of \$2,300.00 for unpaid rent and two NSF bank fees that have not been paid as of the date of this decision. I allow the landlord to retain the tenants' security deposit plus applicable interest as partial satisfaction of the monetary award issued in this decision. No interest is payable over this period. As the landlord has been successful in this application, the landlord is entitled to recover the filing fee for this application.

### 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 in the following terms which allows the landlord to recover unpaid rent and NSF bank fees owing from October 2011 until April 18, 2012, to recover the filing fee for this application and to retain the tenants' security deposit:

Item	Amount
Unpaid Rent Owing from October 2011 to April 2012	\$2,230.00
Unpaid NSF Cheque Fees (2 @ \$35.00 = \$70.00)	70.00
Less Security Deposit	-320.00
Recovery of Filing Fee for this application	50.00
<b>Total Monetary Order</b>	<b>\$2,030.00</b>

The landlord is provided with these Orders in the above terms and the tenant(s) 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 18, 2012

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Residential Tenancy Branch