



# 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 an application by the landlord pursuant to the *Residential Tenancy Act* for orders as follows:

1. A monetary order pursuant to Section 67;
2. An Order of Possession pursuant to Section 55;
3. An Order to retain the security and/or pet deposit pursuant to Section 38; and
4. An Order to recover the filing fee pursuant to Section 72.

I accept that the tenants were properly served with the Notice to End Tenancy and the Application for Dispute Resolution hearing package.

Both parties attended the hearing were given a full opportunity to be heard, to present evidence and to make submissions. Neither party requested an adjournment or a Summons to Testify.

On the basis of the solemnly sworn evidence presented at the hearing a decision has been reached.

### **Issue(s) to be Decided**

Whether the landlord has cause to end this tenancy and receive an Order of Possession and whether the landlord is entitled to monetary order for unpaid rent and recovery of the filing fee.

### **Background and Findings**

#### **Order of Possession**

The parties agree that the tenants vacated the rental unit and an Order of Possession is no longer required.

## **Monetary Order**

### ***Rental Arrears***

The rental unit is a basement suite in the landlords' home. The landlord initially issued a 1 month Notice to End Tenancy for Cause on February 1, 2012 effective February 29, 2012, following which the tenants gave notice on March 16, 2012 that they intended to vacate on March 31, 2012. The landlords say that the tenants did not however vacate and they did not pay rent for April 1, 2012. The landlords then posted a 10 day Notice to End Tenancy for unpaid rent effective April 11, 2012. The tenants did not pay the rent nor did the landlords did any indication that the tenants had moved accordance with the Notice. The landlords texted the tenants asking when they intended to move and received a response on April 5, 2012 "...stop texting me emailing me with your bs keep the damage deposit well be out on the 15<sup>th</sup>..." (reproduced as written). The landlords say they saw no indication that the tenants had moved on the 15<sup>th</sup>. The landlords posted a notice to inspect the rental unit and when they entered the unit on the 18<sup>th</sup> they discovered that most of the tenants belongings were gone except boxes and a couch. The landlords say the tenants never returned to retrieve these items. The landlords also discovered that the tenants had not cleaned and that there was damage. The landlords are seeking rent for April and May because they were unable to re-rent the premises for May because of the tenants delayed departure. Further the landlords have submitted estimates for repairs and are now seeking to add a claim for cleaning and repairs to this claim.

The tenants say they vacated in accordance with the 10 day Notice and left on April 6, 2012. They left empty boxes and a couch behind. The tenants say they have received no evidence with respect to the landlord's claims for anything except for unpaid rent

The evidence shows that the tenants remained in the rental unit into April and that they left their goods behind. The tenants say they vacated on April 6 however the landlords were not aware of that departure until April 18. The tenants have failed to show that they notified the landlords that they had already vacated, if they had in fact vacated and, based on the evidence that their goods remained in the rental unit it is clear they had not vacated. I therefore find that the landlords are entitled to rent for April because the tenants remained in possession of the rental unit for the month of April, further, I find that the landlords are entitled to rent for May because the tenants over-held the rental unit into April and did not advise the landlord of their inten and the landlords were therefore unable to re-rent it effective for May.

With respect to the landlords request to add a monetary claim for damages and/or cleaning this claim has not been properly made and I cannot amend the application to add a claim of

***Security Deposit***

I find further that the landlord is entitled to retain the security deposit and interest to the date of this decision in partial satisfaction of the rental arrears.

***Filing Fees***

I find that the landlord is entitled to recover the filing fees paid for this application.

***Calculation of total Monetary Award***

Rental Arrears	
Less Security Deposit and interest from * to the date of this Order	
Total Monetary Award	

**Conclusion**

The landlord is provided with a formal copy of an order of possession. This is a final and binding Order enforceable as any Order of the Supreme Court of British Columbia.

The landlord is provided with a formal copy of an order for the total monetary award as set out above. This is a final and binding Order enforceable as any Order of the Provincial Court of British Columbia.

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 24, 2012.

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Residential Tenancy Branch

## **O R D E R**

**I ORDER** that the landlord is entitled to a monetary order in the sum of \$\*. **I ORDER** that the tenant pay this sum forthwith.

**I FURTHER ORDER** the landlord is given a formal Order in the above terms and the tenant must be served with a copy of this Order as soon as possible.

## **O R D E R**

**I DO AUTHORIZE AND COMMAND YOU \***, tenant(s), to deliver full and peaceable vacant possession and occupation of the said premises to the landlord within **TWO (2) DAYS** of service of a copy of this Order on you. **OR on or before \***.