



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPC, MNR, FF

### Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution, seeking an order of possession based on a one month Notice to End Tenancy, a monetary order for unpaid rent and to recover the filing fee for the Application.

An Agent for the Landlord appeared, gave affirmed testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

The female Tenant appeared at the hearing and explained the Tenants were vacating the rental unit in two days. The Tenant stated she did not think the hearing should proceed because they were moving out.

I explained to the Tenant that it was the Landlord's Application and it was up to the Landlord whether or not they wanted to proceed. The Tenant became interruptive and agitated, and then left the hearing before it concluded as described below.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issue(s) to be Decided

Is the Landlord entitled to an order of possession?

Is the Landlord entitled to one month of rent?

### Background and Evidence

The Agent for the Landlord testified she served the Tenants personally with a one month Notice to End Tenancy on March 7, 2012, with an effective date of April 30, 2012 (the "Notice").

There is no evidence that the Tenants filed an Application to dispute the Notice. According to the statement of the Tenant, they are moving out of the rental unit in two days.

The Agent for the Landlord also testified that the Tenants had failed to pay \$800.00 in rent for the month of April 2012.

When the Tenant was asked if the Tenants had paid April rent, the Tenant made a comment which was not understood and then she disconnected from the hearing.

The Agent testified that the Landlord is holding a security deposit of \$400.00

### Analysis

Based on the above, the evidence and testimony, and on a balance of probabilities, I find that the Landlord is entitled to an order of possession and to a monetary order for unpaid rent.

By not filing an Application to dispute the Notice, the Tenants are conclusively presumed under section 47(5) of the Act, to have accepted that the tenancy ended on the effective date of the Notice, April 30, 2012.

Therefore, under section 55 of the Act, I find the Landlord is entitled to an order of possession, effective at **1:00 p.m. April 30, 2012**. This order must be served on the Tenants and may be enforced in the Supreme Court of British Columbia.

I also find the Tenants have failed to pay the Landlord rent for the month of April in the amount of \$800.00. I find the Landlord has established a monetary claim of **\$850.00**, comprised of \$800.00 for rent and the \$50.00 for the filing fee for the Application.

As the Landlord has suffered a loss of rent and is still holding the security deposit, I allow an amendment to the Application to include a claim against the security deposit, pursuant to sections 64 and 72 of the Act.

I allow the Landlord to retain the security deposit of \$400.00 in partial satisfaction of the claim, and I grant and issue the Landlord a monetary order for the balance due of **\$450.00**

This order must be served on the Tenants and may be enforced in the Provincial Court, Small Claims division.

This decision is final and binding on the parties, except as otherwise provided under the Act, and 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