



# 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 and for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement 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 his filing fee for this application from the tenants pursuant to section 72.

The tenants did not attend this hearing, although I waited until 3:15 p.m. in order to enable them to connect with this teleconference hearing scheduled for 3:00 p.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 he handed the male tenant a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) on April 23, 2012 at 8:30 p.m. He entered into written evidence a copy of the 10 Day Notice and a Proof of Service document in which a witness attested to the landlord's hand delivery of the 10 Day Notice to the male tenant on April 23, 2012. The landlord testified that he sent copies of the dispute resolution hearing package to both tenants by registered mail on May 7, 2012. He provided the Canada Post Tracking Numbers to confirm this mailing. 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 and losses arising out of this tenancy? 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 six-month fixed term tenancy commenced on December 1, 2011. Monthly rent is set at \$725.00, payable in advance on the first of each month. The landlord continues to hold the tenants' \$362.50 pet damage deposit and \$362.50 security deposit both paid on December 1, 2011.

The landlord testified that the tenants have not paid anything since he issued the tenants the 10 Day Notice on April 23, 2012. The landlord applied for a monetary award of \$2,175.00, an amount which was to enable him to recover unpaid rent of \$725.00 for April and May 2012 and his anticipated loss of rent of \$725.00 for June 2012.

### Analysis

The tenants failed to pay the April 2012 rent within five days of receiving the 10 Day Notice. The tenants have 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 tenants' failure to take either of these actions within five days led to the end of this tenancy on the effective date of the notice. In this case, this required the tenants to vacate the premises by May 13, 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.

I find that the landlord is entitled to a monetary award of \$725.00 for unpaid rent for each of April and May 2012. Although the fixed term tenancy was to end on May 31, 2012, the tenancy was to continue as a periodic tenancy had the tenants continued to pay their monthly rent. As that did not occur, I allow the landlord a monetary award of \$362.50 for his anticipated loss of rent for one-half of June 2012.

I allow the landlord to retain the tenants' pet damage and security deposits plus applicable interest to partially offset the amount of the monetary award issued in this decision. No interest is payable over this period. I allow the landlord to recover his filing fee from the tenants.

### 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, loss of rent, his filing fee and to retain the tenants' pet damage and security deposits:

<b>Item</b>	<b>Amount</b>
Unpaid April 2012 Rent	\$725.00
Unpaid May 2012 Rent	725.00
Loss of Rent for One-Half of June 2012	362.50
Less Security and Pet Damage Deposits	-725.00
Recovery of Filing Fee for this application	50.00
<b>Total Monetary Order</b>	<b>\$1,137.50</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(s) 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: May 28, 2012

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Residential Tenancy Branch