



# 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 the filing fee for this application from the tenant pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions and to cross-examine one another. The tenant confirmed that she received the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) posted by Landlord LW on her door on April 5, 2012. The tenant also confirmed that she received a copy of the landlord's dispute resolution hearing package sent by the landlord by registered mail on April 28, 2012. I am satisfied that the landlord served these documents 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 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 began as a six-month fixed term tenancy on June 3, 2011. At the expiration of the initial term, this converted to a periodic tenancy. Monthly rent is currently set at \$925.00, payable in advance on the first of each month. The landlord continues to hold the tenant's \$462.50 security deposit paid on May 16, 2011.

The landlord's original application for a monetary award of \$1,300.00 included \$375.00 in rent owing as of March 31, 2012 and \$925.00 in rent that became due on April 1, 2012. The landlord testified that the tenant has not paid any of the \$1,300.00 identified

as owing in the 10 Day Notice, nor has the tenant paid her \$925.00 rent for May 2012. The landlord requested authorization to amend the amount of the monetary award sought in the landlord's application by increasing it by \$925.00 to reflect the unpaid May 2012 rent. I agreed to amend the landlord's application from \$1,300.00 to \$2,225.00.

The landlord entered into written evidence a tenant ledger outlining the tenant's history of rent payments, confirming the amount owing. The tenant did not deny the landlord's claim that the amount of rent requested in the landlord's application for a monetary award remains owing. Landlord AL said that she was seeking an end to this tenancy by May 25, 2012 and an Order of Possession effective that date.

### Analysis

The tenant failed to pay the \$1,300.00 amount identified as owing for rent in the 10 Day Notice within five days of receiving that notice. 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 her tenancy on the corrected effective date of the notice. In this case, this required the tenant to vacate the premises by April 18, 2012. As that has not occurred, I find that the landlord is entitled to an Order of Possession to take effect by 1:00 p.m. on May 25, 2012. 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 by the date and time 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 \$2,225.00 in unpaid rent arising from this tenancy. 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 find that the landlord is entitled to recover the filing fee for the application from the tenant.

### Conclusion

The landlord is provided with a formal copy of an Order of Possession effective by 1:00 p.m. on May 25, 2012. 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 for unpaid rent and recovery of the filing fee for this application and to retain the tenant's security deposit:

Item	Amount
Unpaid Rent Owing as of March 31, 2012	\$375.00
Unpaid April 2012 Rent	925.00
Unpaid May 2012 Rent	925.00
Less Security Deposit	-462.50
Recovery of Filing Fee for this application	50.00
<b>Total Monetary Order</b>	<b>\$1,812.50</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: May 18, 2012

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Residential Tenancy Branch