



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR

### Introduction

This hearing dealt with an application by the landlord for an order of possession for unpaid rent and a monetary order for unpaid rent.

Both parties participated in the conference call hearing.

### Issue(s) to be Decided

Is the landlord entitled to any of the above under the Act.

### Background and Evidence

On April 5, 2012 the landlord served the tenant with a 10 Day Notice to End Tenancy for Unpaid rent; the tenant has not filed to dispute this notice.

The landlord testified that the tenant currently owes the landlord \$559.26 in unpaid rent for April 2012 and \$1300.00 in unpaid rent for May 2012. The landlord stated that the tenant has not made any rent payments to the landlord since being served with the notice to end tenancy for unpaid rent.

The tenant stated that she had withheld rent because her rental unit is infested with carpenter ants. The tenant acknowledged that she had not filed a claim through this office and did not have an order from this office allowing the withholding of the rent. The tenant inquired how or if there could be a reduction in the rent owed because of the ants.

The landlord stated that if the tenant would agree to mutually end the tenancy and vacate the rental property no later than May 27, 2012 at 12:00PM, the landlord would not seek to enforce any monetary claims against the tenant, the tenant agreed to this.

### Analysis

Based on the documentary evidence and testimony of the parties I find that the tenant was properly served with a notice to end tenancy for non-payment of rent. The tenant did not pay the outstanding rent within 5 days of receiving the notice and did not apply for dispute resolution to dispute the notice and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice. Based on the above facts I find that the landlord is entitled to an order of possession and a monetary order for unpaid rent.

Accordingly I find that the landlord is entitled to a monetary order for \$559.26.

Pursuant to Section 63 of the *Residential Tenancy Act* the parties in this hearing however have agreed to the following:

- The tenant will vacate the rental unit no later than May 27, 2012 at 12:00PM.
- If the tenant vacates as agreed to the landlord WILL NOT make a claim against the tenant for ANY unpaid rent and will not enforce the monetary order for the unpaid rent in this application.
- Neither party will seek any further actions against the other in relation to this tenancy if the tenant vacates the rental unit by May 27, 2012 at 12:00PM.

As the landlord has been successful in their application the landlord is entitled to recovery of the \$50.00 filing fee.

### Conclusion

I hereby grant the landlord an **Order of Possession**, effective **May 27, 2012 at 12:00PM**. This Order must be served on the tenant(s) and may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

I find that the landlord has established a monetary claim for \$559.26 in unpaid rent. The landlord is also entitled to recovery of the \$50.00 filing fee. I grant the landlord a monetary order under section 67 for the amount of **\$609.26**.

If the amount is not paid by the tenant(s), the Order may be filed in the Provincial (Small Claims) Court of British Columbia and enforced as an order 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 17, 2012

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Residential Tenancy Branch