



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, MNSD, MNDC, FF

### Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim. Despite having been served with the application for dispute resolution and notice of hearing by registered mail on May 10, the tenant did not participate in the conference call hearing.

### Issues to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order for unpaid rent and loss of income?

### Background and Evidence

The landlord's undisputed testimony is as follows. The tenancy began in March 2012 at which time the tenant paid a \$2,500.00 security deposit. Rent in the amount of \$2,500.00 is payable in advance on the first day of each month. The tenant failed to pay rent in the month of April and on April 28 the landlord served the tenant with a notice to end tenancy by posting the notice to the door of the rental unit. The tenant further failed to pay rent in the month of May and the landlord seeks an award of loss of income for the month of June.

### Analysis

I accept the landlord's undisputed testimony and I find that the tenant did not pay rent for the month of April and on April 28 was served with a notice to end tenancy for non-payment of rent, which is deemed received 3 days later on May 1. 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. The tenant must be served with the order of possession. Should the tenant fail to comply with the

order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

As for the monetary order, I find that the landlord is entitled to recover the unpaid rent for the months of April and May and I award him \$5,000.00. Although the landlord anticipates losing income for the month of June, I find that he may be able to re-rent the unit for the last half of June and find it appropriate to award him one half of a month in lost income. I award him \$1,250.00 and I dismiss the claim for loss of income for June 16 – 30 with leave to reapply. I find that the landlord is entitled to recover the \$100.00 filing fee paid to bring this application and I award him this sum for a total award of \$6,350.00. I order that the landlord retain the \$2,500.00 security deposit in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$3,850.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

### Conclusion

The landlord is granted an order of possession and a monetary order for \$3,850.00. The landlord will retain the security deposit.

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 30, 2012

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Residential Tenancy Branch