



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPR, MNR, MNDC, MNSD, FF

### Introduction

This hearing dealt with the landlord's application for dispute resolution under the Residential Tenancy Act (the "Act") for an order of possession, for a monetary order for money owed or compensation for damage or loss and for unpaid rent and to recover the filing fee.

The parties appeared, the hearing process was explained and the parties were given an opportunity to ask questions about the hearing process.

Thereafter the parties gave affirmed testimony, were provided the opportunity to present their evidence orally and in documentary form prior to the hearing, and to make submissions to me.

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 to an order of possession, a monetary order and for recovery of the filing fee?

### Background and Evidence

This month to month tenancy began on October 19, 2011, monthly rent is \$1000.00, and a security deposit of \$500.00 was paid by the tenant at the beginning of the tenancy.

The landlord gave evidence that on May 3, 2012, the tenants were served with a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice"), by registered mail. The Notice stated the amount of unpaid rent due on May 1, 2012, was \$1000.00. Documents served in this manner are deemed served five days later under section 90 of the Act.

Thus the effective vacancy date of May 12, 2012, listed on the Notice is automatically corrected to May 18, 2012.

The Notice informed the tenants that the Notice would be cancelled if the rent was paid within five days. The Notice also explained the tenants had five days to dispute the Notice.

The landlord also submitted that the tenants owed \$200.00 from April 2012, and that the total rent deficiency is \$1200.00, as of the day of the hearing.

The tenant confirmed that he had not paid the balance of April's rent, due to circumstances not related to the issues in the application. The tenant also confirmed that he had not paid rent for May 2012.

### Analysis

Based on the above testimony and evidence, and on a balance of probabilities, I find as follows:

The tenants have not paid the outstanding rent and did not apply to dispute the Notice and are therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

I find that the landlord is entitled to an order of possession effective **two days** after service on the tenants.

I am enclosing the order of possession with the landlord's Decision. This order is a **legally binding, final order**, and may be filed in the Supreme Court of British Columbia should the tenants fail to comply with this order of possession.

I find that the landlord has established a total monetary claim of **\$1250.00** comprised of outstanding rent of **\$1200.00** and the **\$50.00** filing fee paid by the landlord for this application.

At the landlord's request, I allow the landlord to retain the tenants' security deposit of **\$500.00** in partial satisfaction of the claim and I grant the landlord a monetary order under authority of section 67 of the Act for the balance due of **\$750.00**.

I am enclosing the monetary order for \$750.00 with the landlords' Decision. This order is a **final, legally binding order**, and may be filed in the Provincial Court of British Columbia (Small Claims) should the tenants fail to comply with this monetary order.

Conclusion

The landlord is granted an order of possession, may keep the tenants' security deposit in partial satisfaction of the claim and is granted a monetary order for **\$750.00**.

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 24, 2012.

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Residential Tenancy Branch