



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** OPC; OPR; MNR; FF

### **Introduction**

This is the Landlord's application for an Order of Possession for Cause; and Order of Possession for Unpaid Rent; a Monetary Order for unpaid rent and loss of revenue; and to recover the cost of the filing fee from the Tenants.

The Landlord's agent gave affirmed testimony at the Hearing.

The Landlord's agent testified that the Notice of Hearing documents were mailed to each of the Tenants, via registered mail, to the rental unit on May 18, 2012. The Landlord provided copies of the registered mail receipts in evidence.

Based on the affirmed testimony of the Landlord's agent and the documentary evidence provided by the Landlord, I am satisfied that the Tenants were duly served with the Notice of Hearing documents by registered mail. Service in this manner is deemed to be effected 5 days after mailing the documents. Despite being served with the Notice of Hearing documents, the Tenants did not sign into the teleconference and the Hearing proceeded in their absence.

### **Issues to be Decided**

- Is the Landlord entitled to an Order of Possession for Cause or Unpaid Rent?
- Is the Landlord entitled to a Monetary Order for unpaid rent for May, 2012 and loss of revenue for June, 2012?

### **Background and Evidence**

The Landlord's agent gave the following testimony and evidence:

Monthly rent is \$990.00 per month, due the first day of each month. The Tenants paid a security deposit in the amount of \$475.00.

The Landlord's agent issued a Notice to End Tenancy for Cause on April 29, 2012. The Landlord's agent stated that the Notice was handed to the male Tenant at the rental unit, but she did not recall the date.

On May 7, 2010, the Landlord's agent served the Tenants with a 10 Day Notice to End Tenancy for Unpaid Rent, by posting the Notice on the Tenants' door at the rental unit.

The Landlord provided a Proof of Service document in evidence which is signed by a witness.

The Tenants have not paid any of the outstanding rent for May, 2012. The Landlord's agent did not know if the Tenants were still occupying the rental unit.

The Landlord's agent asked to apply the security deposit towards partial satisfaction of the Landlord's monetary award.

### **Analysis**

The Landlord's agent did not provide sufficient proof of service of the Notice to End Tenancy for Cause upon the Tenants. Therefore the Landlord's application for an Order of Possession for Cause is dismissed.

Based on the Landlord's agents affirmed testimony that the documentary evidence, I find that the Tenants were served with the Notice to End Tenancy for Unpaid Rent by posting the Notice on the Tenants' door on May 7, 2012, at 4:15 p.m. Pursuant to the provisions of Section 90 of the Act, service in this manner is deemed to be effected three days after posting the documents. The Tenants did not pay the arrears, or file for dispute resolution, within 5 days of receiving the documents. Therefore, pursuant to the provisions of Section 46(5) of the Act, the Tenants are conclusively presumed to have accepted that the tenancy ended on May 17, 2012. I find that the Landlord is entitled to an Order of Possession and I make that Order, effective 2 days after service of the Order upon the Tenants.

The Landlord's agent has established a monetary award for unpaid rent in the amount of \$990.00. I find that the Landlord's application for loss of revenue for the month of June, 2012, is premature and this portion of its application is dismissed with leave to reapply.

Pursuant to the provisions of Section 72(2)(b) of the Act, the Landlord may apply the security deposit towards partial satisfaction of its monetary award.

The Landlord has been successful in its application and is entitled to recover the cost of the \$50.00 filing fee from the Tenants.

I hereby provide the Landlord a Monetary Order, calculated as follows:

Unpaid rent	\$990.00
Recovery of the filing fee	<u>\$50.00</u>

Subtotal	\$1,040.00
Less security deposit	- \$475.00
<b>TOTAL AMOUNT DUE TO THE LANDLORD AFTER SET-OFF</b>	<b>\$565.00</b>

### **Conclusion**

I hereby provide the Landlord an Order of Possession effective **two days after service of the Order upon the Tenants**. This Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

I hereby provide the Landlord a Monetary Order in the amount of **\$565.00** for service upon the Tenants. This Order may be filed in the Provincial Court of British Columbia (Small Claims) and enforced as an Order of that Court.

The Landlord's application for loss of revenue for the month of June, 2012, is **dismissed with leave to reapply**.

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