



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Dispute Codes:

**OPR, MNR, FF**

### Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has made application for an Order of Possession for Unpaid Rent, a monetary Order for unpaid rent, compensation for damage or loss under the Act and to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

The agent for the landlord provided affirmed testimony that midday on May 14, 2012; copies of the Application for Dispute Resolution and Notice of Hearing were hand-delivered to each tenant at the rental unit. Another agent for the landlord was present.

These documents are deemed to have been served in accordance with section 89 of the Act; however neither tenant appeared at the hearing.

### Preliminary Matter

There was not claim before me in relation to damage or loss under the Act.

### Issue(s) to be Decided

Is the landlord entitled to an Order of possession for unpaid rent?

Is the landlord entitled to a monetary Order for unpaid rent?

Is the landlord entitled to filing fee costs?

### Background and Evidence

The tenancy commenced on July 1, 2007, rent is \$850.00 per month, due on the first day of each month.

The landlord stated that on May 2, 2012, a ten (10) day Notice to End Tenancy for non-payment of rent, which had an effective date of May 12, 2012, was personally served by the agent in the presence of another agent for the landlord. The male tenant was handed the Notice at approximately 1:30 p.m., at the door to the rental unit.

The Notice indicated that the Notice would be automatically cancelled if the landlord received \$850.00 within five days after the tenants were assumed to have received the Notice. The Notice also indicated that the tenants were presumed to have accepted that the tenancy was ending and that the tenants must move out of the rental by the date set out in the Notice unless the tenants filed an Application for Dispute Resolution within five days.

The landlord has claimed unpaid May and June, 2012, rent in the sum of \$1,700.00.

### Analysis

Section 90 of the Act stipulates that a document that is hand-delivered is deemed served on the day of delivery.

Section 46(1) of the Act stipulates that a 10 Day Notice to End Tenancy is effective ten days after the date that the tenant receives the Notice. As the tenants are deemed to have received this Notice on May 2, 2012, I find that the earliest effective date of the Notice is May 12, 2012; the date indicated on the Notice.

In the absence of evidence to the contrary, I find that the tenants were served with a Notice to End Tenancy that required the tenants to vacate the rental unit on May 12, 2012, pursuant to section 46 of the Act.

Section 46 of the Act stipulates that a tenant has five (5) days from the date of receiving the Notice to End Tenancy to either pay the outstanding rent or to file an Application for Dispute Resolution to dispute the Notice. In the circumstances before me I have no evidence that the tenants exercised either of these rights, therefore; pursuant to section 46(5) of the Act, I find that the tenants accepted that the tenancy has ended. On this basis I will grant the landlord an Order of Possession that is effective 2 days after service to the tenants.

In the absence of evidence to the contrary, I find that the tenants have not paid rent in the amount of \$1,700.00 for May and June, 2012, and that the landlord is entitled to compensation in that amount.

I find that the landlord's application has merit and that the landlord is entitled to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

### Conclusion

The landlord has been granted an Order of Possession that is effective 2 days after service to the tenants. This Order may be served on the tenants, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

I find that the landlord has established a monetary claim, in the amount of \$1,750.00, which is comprised of unpaid May and June, 2012, rent and \$50.00 in compensation for the filing fee paid by the landlord for this Application for Dispute Resolution.

Based on these determinations I grant the landlord a monetary Order in the sum of \$1,750.00. In the event that the tenants do not comply with this Order, it may be served on the tenants, filed with the Province of British Columbia Small Claims Court 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: June 05, 2012.

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Residential Tenancy Branch