



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, OPC, MNR, MNDC and FF

This application was brought by the landlord on June 6, 2012 seeking an Order of Possession pursuant to a one-month Notice to End Tenancy for cause - failure to pay the security deposit - served on May 1, 2012 in person.

The landlord amended his application and served the tenants with the amendment on June 16, 2012 to add a Notice to End Tenancy for unpaid rent served on June 9, 2012, requesting an Order of Possession and Monetary Order for the unpaid rent and recovery of the filing fee for this proceeding.

Despite having been served with the Notice of Hearing served on June 9, 2012, the tenants did not call in to the number provided to enable their participation in the telephone conference call hearing. Therefore, it proceeded in their absence.

### Issue(s) to be Decided

This application requires a decision on whether the landlord is entitled to an Order of Possession and a Monetary Order as requested. .

### Background and Evidence

This tenancy began on April 1, 2012. Rent is \$1,125 per month and the tenants have not paid the \$550 security deposit that was due at the beginning of the tenancy

During the hearing, the landlord gave evidence that the one-month Notice to End Tenancy of May 1, 2012 had been served when the tenants had failed to pay the security deposit due on April 1, 2012.

In the interim, the security deposit remains unpaid and the tenants failed to pay the rent due on June 1, 2012 resulting in the 10-day Notice to End Tenancy of June 9, 2012.

The landlord stated that, at the time of the hearing, the tenants had a rent shortfall of \$425 for May 2012 and owed the full \$1,125 rent for June 2012.

Therefore, the landlord requested an Order of Possession to take effect on June 30, 2012, the end of tenancy date set by the Notice to End Tenancy for unpaid rent. The landlord also requested a Monetary Order for the unpaid rent.

### Analysis

Section 26 of the *Act* provides that tenants must pay rent when it is due.

Section 46 of the *Act* provides that a landlord may issue a Notice to End Tenancy for unpaid rent on a day after the rent is due. The tenant may cancel the notice by paying the overdue rent or make application to dispute the notice within five days of receiving it.

In this instance, I find that the tenants did not pay the rent within five days of receiving the notice and did not make application to dispute it.

Therefore, under section 46(5) of the *Act*, the tenants are conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice to End Tenancy which is June 30, 2012.

Accordingly, I find that the landlord is entitled to an Order of Possession to take effect at 1 p.m. on June 30, 2012.

As the tenancy is ending on the issue of the unpaid rent, I find it is not necessary to address the earlier Notice to End Tenancy for the cause of the unpaid security deposit.

I do find that the landlord is entitled to a Monetary Order for the unpaid rent and recovery of the filing fee for this proceeding, calculated as follows:.

Rent shortfall for May 2012	\$ 425.00
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Filing fee	<u>50.00</u>
<b>TOTAL</b>	<b>\$1,600.00</b>

### Conclusion

The landlord's copy of this decision is accompanied by an Order of Possession, enforceable through the Supreme Court of British Columbia, to take effect at 1 p.m. on June 30, 2012.

The landlord's copy of this decision is also accompanied by a Monetary Order for **\$1,600.00**, enforceable through the Provincial Court of British Columbia, for service on the tenants.

The landlord remains at liberty to make application for any further damage or losses as may be ascertained following the conclusion of the tenancy.

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 25, 2012.

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Residential Tenancy Branch