



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR

### Introduction

This matter dealt with an application by the Landlord for an Order of Possession and a Monetary Order for unpaid rent.

The Original hearing for this case was conducted by way of a Direct Request Hearing conducted on May 11, 2012. The decision from that Hearing dated May 11, 2012, order the application to be reconvened for a conference call hearing on June 6, 2012 to determine if the correct amount of unpaid rent was on the 10 Day Notice to End Tenancy for Unpaid Rent.

The Landlord said she served the Tenant with the Reconvened Application and Notice of Hearing (the "hearing package") by registered mail on May 29, 2012. The Landlord said she did not receive the May 11, 2012, decision until May 29, 2012 and then she sent it by registered mail to the Tenant the same day as she received it May 29, 2012. The Landlord said the envelope with the hearing decision from May 11, 2012 was post marked May 29, 2012. As a result the Tenant could not be served the reconvened hearing Notice in time for the Hearing on June 6, 2012. Consequently the hearing was adjourned to June 19, 2012 and the Residential Tenancy Branch mailed out the adjourned hearing Notices to both the Landlord and the Tenant on June 8, 2012. Based on the evidence of the Landlord, I find that the Tenant was served with the Landlord's hearing package as required by s. 89 of the Act and the hearing proceeded in the Tenant's absence.

### Issues(s) to be Decided

1. Does the Landlord have grounds to end the tenancy?
2. Are there rent arrears and if so, how much?
3. Is the Landlord entitled to compensation for unpaid rent and utilities and if so how much?

### Background and Evidence

This tenancy started on August 1, 2008 as a month to month tenancy. Market rent is \$728.00 per month and the Tenant has received a subsidy from BC Housing in the amount of \$477.00 per month for 2011 making the Tenant's share of the rent \$251.00 per month. The Landlord said the Tenant is paying the share of rent calculated in 2010 which is \$259.00 per month, because the Tenant has not communicated with BC Housing about his subsidy amount. The Landlord continued to say that the unpaid rent issue has arisen because the Tenant has not provided proof of income to BC Housing, which resulted in his rent subsidy being cancelled. Consequently the Tenant now has unpaid rent of \$469.00 for each of the following months March, April, May and June 2012. The Landlord said the total unpaid rent is \$1,876.00. The Tenant paid a security deposit of \$297.50 in advance of the tenancy.

The Landlord said that they have made a number of attempts to contact and work with the Tenant to help the Tenant with the subsidy paper work and to resolve the situation, but the Tenant will not communicate with the Landlord. As a result of the unpaid rent from March, 2012, the Landlord issued a 10 Day Notice to End Tenancy dated March 7, 2012 and delivered the Notice to End Tenancy on March 7, 2012 by posting it on the door of the Tenants rental unit. The Landlord said the Tenant is living in the rental unit and the Landlord requested an Order of Possession for June 30, 2012 if their application is successful.

### Analysis

Section 46(4) of the Act states that **within 5 days of receiving** a Notice to End Tenancy for Unpaid Rent or Utilities, a Tenant must pay the overdue rent or apply for dispute resolution. If the Tenant fails to do either of these things, then under section 46(5)(2) of the Act, they are conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice and they must vacate the rental unit at that time.

Under s. 90 of the Act, the Tenant is deemed to have received the Notice to End Tenancy three days after it is posted on the door or on March 10, 2012. Consequently, the Tenant would have had to pay the amount stated on the Notice or apply to dispute that amount no later than March 15, 2012.

I find that the Tenant has not paid the overdue rent and has not applied for dispute resolution. Consequently, I find pursuant to s. 55(2)(b) of the Act that the Landlord is entitled to an Order of Possession to take effect on June 30, 2012 at 1:00 p.m.

I also find that the Landlord is entitled to recover the amount of unpaid rent for March , 2012 in the amount of \$469.00, unpaid rent for April, 2012 in the amount of \$469.00, unpaid rent for May, 2012 in the amount of \$469.00 and unpaid rent for June, 2012 in

the amount of \$469.00. The total amount of unpaid rent awarded to the Landlord is \$1,876.00.

The Landlord will receive a monetary order for the balance owing as following:

Rent arrears:	\$1,876.00	
Subtotal:		\$1,876.00
Balance Owing		\$1,876.00

### Conclusion

An Order of Possession effective on June 30, 2012 at 1:00 p.m. and a Monetary Order in the amount of \$1,876.00 have been issued to the Landlord. A copy of the Orders must be served on the Tenant: the Order of Possession may be enforced in the Supreme Court of British Columbia and the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia.

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*.

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Residential Tenancy Branch