



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, MNSD, FF

### Introduction

This hearing dealt with the landlord's application for dispute resolution under the Residential Tenancy Act (the "Act"), seeking for an order of possession, a monetary order for unpaid rent, for authority to retain the tenant's security deposit and to recover the filing fee.

The landlord appeared and gave affirmed testimony.

The landlord testified that he served the tenant with the Application for Dispute Resolution and Notice of Hearing by registered mail on May 30, 2012. The landlord supplied testimony and evidence of the tracking number of the registered mail.

I find the tenant was served in a manner complying with section 89 of the Residential Tenancy Act (the "Act") and the hearing proceeded in the tenant's absence.

The landlord was provided the opportunity to present his evidence orally and in documentary form.

### Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent, for authority to retain the tenant's security deposit and for recovery of the filing fee?

### Background and Evidence

There was no written tenancy agreement; however, the landlord testified that this tenancy began in 2009, monthly rent is \$700.00 and a security deposit of \$350.00 was paid by the tenant at the start of the tenancy.

The landlord gave affirmed testimony and supplied evidence that on May 21, 2012, the tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice")

listing unpaid rent of \$1000.00. The method of service for the Notice was by personal delivery. The effective vacancy date listed on the Notice was May 31, 2012.

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

The landlord provided evidence and gave affirmed testimony that the tenant did not pay the full amount of rent due within 5 days, or pay the June 1, 2012 monthly rent payment. The landlord submitted that on June 3, 2012, the tenant made a payment of \$1150.00, which left the tenant with a current balance owing of \$550.00.

### Analysis

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

I have no evidence before me that the tenant applied to dispute the Notice.

I find the tenant has not paid the outstanding rent and did not apply to dispute the Notice and is therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

### Conclusion

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

The order of possession is enclosed 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 tenant fail to comply with this order of possession.

I find that the landlord has established a total monetary claim of \$600.00 comprised of outstanding rent of \$550.00 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 tenant's \$350.00 security deposit in partial satisfaction of the monetary claim and I grant the landlord a monetary order under authority of section 67 of the Act for \$250.00 for the balance due.

The monetary order for \$250.00 is enclosed with the landlord's Decision. This order is a final, legally binding order, and may be filed in the Provincial Court of British Columbia (Small Claims) should the tenant fail to comply with this monetary order.

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 19, 2012.

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Residential Tenancy Branch