



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

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

### **Introduction**

This is the Landlords' application for an Order of Possession; a Monetary Order for unpaid rent; to retain the security deposit in partial satisfaction of their monetary award; and to recover the cost of the filing fee from the Tenant.

The Landlords gave affirmed testimony at the Hearing.

The Landlords testified that the Notice of Hearing documents were mailed to the Tenant, via registered mail, to the rental unit on May 12, 2012. The Landlord provided the registered mail receipt and tracking number for the registered documents.

Based on the Landlords' affirmed testimony and the documentary evidence, I am satisfied that the Tenant was duly served with the Notice of Hearing documents by registered mail pursuant to the provisions of Section 89(1)(c) of the Act. 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 Tenant did not sign into the teleconference and the Hearing proceeded in his absence.

### **Issues to be Decided**

- Are the Landlords entitled to an Order of Possession?
- Are the Landlords entitled to a Monetary Order for unpaid rent?

### **Background and Evidence**

The Landlords gave the following evidence:

This tenancy started on May 1, 2004. The Tenant paid a security deposit on May 1, 2004, in the amount of \$725.00. On March 22, 2009, the Tenant signed a new tenancy agreement with the Landlords. Monthly rent is \$1,570.00 due on the first day of each month.

The Tenant did not pay rent when it was due on May 1, 2012. The Landlords issued a Notice to End Tenancy for Unpaid Rent on May 2, 2012, and posted it to the Tenant's door on May 2, 2012. The Landlords also sent the Tenant a text message on May 2, 2012, advising that the Notice was posted on his door. The Landlords received a reply

stating "I'm in Quebec". The Landlords testified that the Tenant's son-in-law stays in a camper on the rental property 2 days a week and that he feeds the Tenant's cat. The Landlords stated that they do not know if the Tenant intends on returning to the rental unit.

The Tenant has not paid made any payment towards May rent.

### **Analysis**

I accept that the Landlords served the Tenant with the Notice to End Tenancy by posting the Notice on the Tenant's door on May 2, 2012. 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 Tenant did not pay the rent, or file for dispute resolution, within 5 days of being deemed served. Therefore, pursuant to Section 46(5) of the Act, the Tenant is conclusively presumed to have accepted that the tenancy ended on May 15, 2012. I find that the Landlords are entitled to an Order of Possession and I make that Order, effective 2 days after service of the Order upon the Tenant.

Based on the undisputed testimony of the Landlords, I find that they have established their monetary claim for unpaid rent in the amount of \$1,570.00.

Pursuant to Section 72(2)(b) of the Act, the Landlords may apply the security deposit towards partial satisfaction of the Landlords' monetary claim. Interest in the amount of \$25.67 has accrued on the security deposit.

The Landlords has been successful in their application and I find that they are entitled to recover the cost of the \$50.00 filing fee from the Tenant.

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

Unpaid rent	\$1,570.00
Recovery of the filing fee	<u>\$50.00</u>
Subtotal	\$1,620.00
Less security deposit and accrued interest	<u>- \$750.67</u>
<b>TOTAL AMOUNT DUE TO THE LANDLORDS AFTER SET-OFF</b>	<b>\$869.33</b>

### **Conclusion**

I hereby provide the Landlords an Order of Possession effective **2 days after service of the Order upon the Tenant**. This Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

I hereby provide the Landlords a Monetary Order in the amount of **\$869.33** for service upon the Tenant. This Order may be filed in the Provincial Court of British Columbia (Small Claims) 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 01, 2012.

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Residential Tenancy Branch