



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, MNDC and FF

### Introduction

This application was brought by the landlord on June 19, 2013 seeking an Order of Possession pursuant to a 10-day Notice to End Tenancy for unpaid rent served by posting on the tenants' door on June 8, 2012. The landlord also sought a Monetary Order for unpaid rent, NSF fee and late fees, and recovery of the filing fee for this proceeding.

Despite having been served with the Notice of Hearing sent individually by registered mail on June 20, 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 January 16, 2012 under a fixed term rental agreement set to end on December 31, 2012. Rent is \$1,195 per month and the landlord holds a security deposit of \$597.50 paid on January 9, 2012.

During the hearing, the landlord gave evidence that the Notice to End Tenancy of June 8, 2012 had been served after the tenants' rent cheque for June 2012 was returned as NSF.

In the interim, the June rent remains unpaid and the tenants have not paid the rent due on July 1, 2012. Therefore, the landlord has requested an Order of Possession and a Monetary for the unpaid rent, NSF fee of \$25 for June and late fees of \$20 for June and July 2012.

### 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 was June 21, 2012 taking into account the three days deemed service of notice served by posting.

Accordingly, I find that the landlord is entitled to an Order of Possession to take effect two days from service of it on the tenants.

I further find that the landlord is entitled to a Monetary Order for the unpaid rent, including the rent, NSF fee and late fees. As the application has succeeded on its merits, I find that the landlord is entitled to recover the filing fee for this proceeding from the tenants. Thus, I find that the tenants owe to the landlord an amount calculated as follows:

Rent for June 2012	\$ 1,195.00
NSF fee for June	25.00
Late fees for June and July 2012 at \$20 per month	40.00
Filing fee	<u>50.00</u>
<b>TOTAL</b>	<b>\$2,505.00</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 two days from service of it on the tenants.

In addition, the landlord's copy of this decision is accompanied by a Monetary Order for **\$2,505.00**, enforceable through the Provincial Court of British Columbia, for service on the tenants.

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: July 11, 2012.

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Residential Tenancy Branch