



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: OPR, MNR, MNSD, ET/OP

### Introduction

This hearing was scheduled in response to the landlord's application for an order of possession, a monetary order as compensation for unpaid rent, retention of the security deposit, and an early end of tenancy / order of possession. The landlord participated in the hearing and gave affirmed testimony. Despite service of the application for dispute resolution and notice of hearing (the "hearing package") by way of registered mail, the tenant did not appear. Evidence provided by the landlord includes the Canada Post tracking number for the registered mail, and the Canada Post website informs that the package was "successfully delivered."

During the hearing the landlord described what I find is a misunderstanding in relation to the aspect of the application concerning an early end of tenancy / order of possession. In summary, this aspect of the application is withdrawn.

### Issue(s) to be Decided

Whether the landlord is entitled to any of the above under the Act, Regulation or tenancy agreement.

### Background and Evidence

Pursuant to a written tenancy agreement, the month-to-month tenancy began on August 6, 2011. The tenancy agreement provides that monthly rent of \$700.00 is due and payable in advance on the first day of each month. A security deposit of \$350.00 was collected.

Arising from rent which was not paid in full when due on July 1, 2012, the landlord issued a 10 day notice to end tenancy for unpaid rent dated July 9, 2012. The notice was served in person on that same date. A copy of the notice was submitted in evidence. Subsequently, the tenant made no further payment toward rent and she continues to reside in the unit.

### Analysis

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent dated July 9, 2012. The tenant did not pay the outstanding rent within 5 days of receiving the notice, and did not apply to dispute the notice. The tenant 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. Accordingly, I find that the landlord has established entitlement to an order of possession.

As for the monetary order, I find that the landlord has established a claim of \$1,100.00, which is comprised of \$400.00 in unpaid rent for July, and \$700.00 in unpaid rent for August. I order that the landlord retain the security deposit of \$350.00 and I grant the landlord a monetary order under section 67 of the Act for the balance owed of \$750.00 (\$1,100.00 - \$350.00).

### Conclusion

I hereby issue an order of possession in favour of the landlord effective not later than **two (2) days** after service on the tenant. This order must be served on the tenant. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

Pursuant to section 67 of the Act, I hereby issue a monetary order in favour of the landlord in the amount of \$750.00. This order may be served on the tenant, filed in the Small Claims Court 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: August 10, 2012.

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Residential Tenancy Branch