



# Dispute Resolution Services

Page: 1

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 seeking an order of possession and a monetary order.

The hearing was conducted via teleconference and was attended by the landlord's agent.

The landlord testified the tenants were served with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* by registered mail on July 18, 2012 in accordance with Section 89. As per Section 90, the documents are deemed received by the tenants on the 5<sup>th</sup> day after it was mailed.

Based on the testimony of the landlord, I find that the tenants have been sufficiently served with the documents pursuant to the *Act*.

### Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for unpaid rent; to a monetary order for unpaid rent; for all or part of the security deposit and to recover the filing fee from the tenants for the cost of the Application for Dispute Resolution, pursuant to Sections 38, 46, 55, 67, and 72 of the *Act*.

### Background and Evidence

The landlord's agent testified the tenancy began as a 1 year fixed term tenancy on March 31, 2011 and converted to a month to month tenancy beginning on April 1, 2012 for the monthly rent of \$725.00 due on the 1<sup>st</sup> of each month and a security deposit of \$367.50 was paid; and

The landlord submitted the following documentary evidence a copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on July 9, 2012 with an effective vacancy date of July 19, 2012 due to \$1,125.00 in unpaid rent.

Documentary evidence filed and testimony provided by the landlord's agent indicates the tenants failed to pay the full rent owed for the months of June, July, and August 2012 and that the tenants were served the 10 Day Notice to End Tenancy for Unpaid

Rent personally on July 9, 2012 at 9:26 p.m. and that this service was witnessed by a third party.

The Notice states the tenants had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenants did not pay the rent in full or apply to dispute the Notice to End Tenancy within five days.

### Analysis

I have reviewed all documentary evidence and accept that the tenants have been served with notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenants on July 9, 2012 and the effective date of the notice was July 19, 2012. I accept the evidence before me that the tenants failed to pay the rent owed in full within the 5 days granted under Section 46(4) of the *Act*.

Based on the foregoing, I find the tenants are 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 the landlord is entitled to an order of possession effective **two days after service on the tenants**. This order must be served on the tenants. If the tenants fail to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

I find the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$1,900.00** comprised of \$1,850.00 rent owed and the \$50.00 fee paid by the landlord for this application. I order the landlord may deduct the security deposit and interest held in the amount of \$367.50 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$1,532.50**.

This order must be served on the tenants. If the tenants fail to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be 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 08, 2012.

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Residential Tenancy Branch