



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPR, MNR, MNSD, MNDC, FF

### Introduction

This hearing dealt with the landlords' application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent and for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover their filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I waited until 9:42 a.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 9:30 a.m. The landlords attended the hearing and were given a full opportunity to be heard, to present evidence, to give sworn oral testimony and to make submissions. The landlords' agent testified that he handed the tenant the 10 Day Notice on July 24, 2012 at 4:03 p.m. The landlords' witness, the wife of Landlord SG, testified that she witnessed the landlords' agent hand the 10 Day Notice to the tenant on July 24, 2012. The landlords' agent testified that he handed the tenant a copy of the landlords' dispute resolution hearing package on August 10, 2012 at approximately 11:30 a.m. The landlords' agent also testified that a copy of that dispute resolution hearing package was also sent to the tenant by registered mail on August 11, 2012. He entered into written evidence a copy of the Canada Post Tracking Number to confirm this registered mailing. I am satisfied that the landlords served the above documents to the tenant in accordance with the *Act*.

### Issues(s) to be Decided

Are the landlords entitled to an Order of Possession for unpaid rent? Are the landlords entitled to a monetary award for unpaid rent? Are the landlords entitled to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary award requested? Are the landlords entitled to recover the filing fee for this application from the tenant?

### Background and Evidence

This periodic tenancy commenced on April 1, 2010. Monthly rent is set at \$650.00, payable in advance on the first of each month. The landlords continue to hold the tenant's security deposit paid on or about April 1, 2010.

The landlords issued the 10 Day Notice for \$2,600.00 in rent that they maintained was owing as of July 1, 2012. They testified that no portion of this outstanding rent from April 2012 has been paid by the tenant. Their application for a monetary award of \$3,250.00 included their anticipated loss of rent for August 2012. At the hearing, the landlords testified that no payments have been received from the tenant from April 2012 until the present. The landlords' agent requested an Order of Possession to take effect on August 31, 2012.

### Analysis

The tenant failed to pay the \$2,600.00 amount identified as owing on the 10 Day Notice rent within five days of receiving that Notice. The tenant has not made application pursuant to section 46(4) of the *Act* within five days of receiving the 10 Day Notice. In accordance with section 46(5) of the *Act*, the tenant's failure to take either of these actions within five days led to the end of her tenancy on the effective date of the notice. In this case, this required the tenant to vacate the premises by August 3, 2012. As that has not occurred, I find that the landlords are entitled to an Order of Possession to take effect by 1:00 p.m. on August 31, 2012. The landlords will be given a formal Order of Possession which must be served on the tenant. If the tenant does not vacate the rental unit by that time and date, the landlords may enforce this Order in the Supreme Court of British Columbia.

Based on the undisputed evidence before me, I find that the landlords have demonstrated that the tenant has not paid anything towards her rent from April 2012 until the date of this hearing. As such, I find that the landlords are entitled to a monetary award for unpaid rent of \$650.00 for each of the six months from April 2012 until August 2012.

I allow the landlords to retain the tenant's security deposit plus applicable interest to partially offset the monetary award issued in this decision. No interest is payable over this period. I allow the landlords to recover their filing fee from the tenant.

### Conclusion

The landlords are provided with a formal copy of an Order of Possession effective by 1:00 p.m. on August 31, 2012. Should the tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I issue a monetary award in the landlords' favour under the following terms which allows the landlords to recover unpaid rent and the filing fee for this application and to retain the tenant's security deposit:

| <b>Item</b>                                 | <b>Amount</b>     |
|---|-------------------|
| Unpaid April 2012 Rent                      | \$650.00          |
| Unpaid May 2012 Rent                        | 650.00            |
| Unpaid June 2012 Rent                       | 650.00            |
| Unpaid July 2012 Rent                       | 650.00            |
| Unpaid August 2012 Rent                     | 650.00            |
| Less Security Deposit                       | -325.00           |
| Recovery of Filing Fee for this application | 50.00             |
| <b>Total Monetary Order</b>                 | <b>\$2,975.00</b> |

The landlords are provided with these Orders in the above terms and the tenant must be served with a copy of these Orders as soon as possible. Should the tenant fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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 22, 2012

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Residential Tenancy Branch