



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** OP, MN, FF

### **Introduction**

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for orders as follows:

1. A monetary order pursuant to Section 67;
2. An Order of Possession pursuant to Section 55; and
3. An Order to recover the filing fee pursuant to Section 72.

I accept that the tenant was properly served with the Notice to End Tenancy and the Application for Dispute Resolution hearing package by way of personal service.

The tenants did not appear. The landlord was given full opportunity to be heard, to present evidence and to make submissions.

On the basis of the solemnly sworn evidence presented at the hearing a decision has been reached.

### **Issue(s) to be Decided**

Whether the landlord has cause to end this tenancy and receive an Order of Possession and whether the landlord is entitled to monetary order for unpaid rent and recovery of the filing fee.

### **Background and Findings**

#### **Order of Possession**

The landlord testified that the tenants vacated the rental unit on July 31, 2012 having been served with a 10 day Notice to End Tenancy for unpaid rent on July 8, 2012. The landlord therefore no longer requires an Order of Possession and this claim is dismissed.

#### **Monetary Order**

The tenants did not dispute the 10 day Notice to End Tenancy or that they owe \$700.00 towards the \$1,000.00 rent due for July 2012 and \$173.70 in utilities as also claimed in the Notice. The landlord therefore claims these sums.

The landlord is also claiming rent of \$1,000.00 for August 2012. The landlord makes this claim because the tenants did not vacate in accordance with the 10 day Notice to End Tenancy on July 19, 2012. The landlord says the tenants did not provide written notice of their intentions to vacate on July 31, 2012. Further, the landlord produced an Amendment to the written Tenancy Agreement made between the parties showing that this is a fixed term tenancy set to end September 30, 2012.

The tenant argued that she should not be held responsible for August rent because she did give verbal notice of her intention to move July 31, 2012.

The evidence shows that the tenants entered into a fixed term tenancy ending September 2012 but they failed to pay the full rent due for July 2012 at which time the landlord issued a 10 day Notice to End Tenancy effective July 18, 2012. The evidence shows that the tenant did not pay the rental or utility arrears and they did not vacate the rental unit until July 31, 2012. I therefore find that the landlord is entitled to the rental and utility arrears for July as well as for August given that there was a fixed term tenancy agreement and given that the landlord was unable to re-rent the premises for August 1, 2012 because she had no notice from the tenants as to their intentions after they over-held in the rental unit after the effective date on the Notice.

### ***Filing Fees***

I find that the landlord is entitled to recover the filing fees paid for this application.

### ***Calculation of total Monetary Award***

The landlord holds a security deposit of \$500.00 with no interest accruing. I will use the offsetting provisions of Section 72 of the Act to allow the landlords to retain this sum in partial satisfaction of the monetary award made in favour of the landlords as follows:

Rental arrears for July	\$700.00
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Rent for August	1,000.00
Filing Fees for the cost of this application	50.00
Less security deposit off-set	-500.00
Total Monetary Award	\$1,423.70

**Conclusion**

The landlord is provided with a formal copy of an Order for the total monetary award as set out above. This is a final and binding Order enforceable as any other Order of the Provincial Court of British Columbia.

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