



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** OPR; MNR; FF

### **Introduction**

This is the Landlord's application for an Order of Possession; a Monetary Order for unpaid rent; and to recover the cost of the filing fee from the Tenant.

The Landlord gave affirmed testimony at the Hearing.

The Landlord testified that the Notice of Hearing documents were mailed to the Tenant, via registered mail, to the rental unit on July 7, 2012. The Landlord provided the registered mail receipt and tracking numbers in evidence.

Based on the Landlord's affirmed testimony documentary evidence, I am satisfied that the Tenant was duly served with the Notice of Hearing documents by registered mail. Service in this manner is deemed to be effected 5 days after mailing the documents. Despite being served with the Notice of Hearing documents, the Tenant did not sign into the teleconference and the Hearing proceeded in his absence.

### **Issues to be Decided**

- Is the Landlord entitled to an Order of Possession?
- Is the Landlord entitled to a Monetary Order for unpaid rent for June, July, August and September 2011 and July, 2012?

### **Background and Evidence**

The Landlord gave the following testimony:

Monthly rent is \$1,400.00, due the first day of each month. The Tenant paid a security deposit in the amount of \$350.00 on April 1, 2010. A copy of the tenancy agreement, signed June 1, 2011, was provided in evidence.

The Tenant fell behind in rent payments last year and kept promising to pay the amounts outstanding but did not, so on February 8, 2012, the Landlord served the Tenant with a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice"), by posting the Notice on the Tenant's door on February 8, 2012. A copy of the Notice was provided in evidence. At the time the Notice was issued, the Tenant owed \$7,000.00 for unpaid rent for the months of June, July, August, September 2011 and February, 2012,

in the total amount of \$7,000.00. In February, 2012, the Tenant paid the outstanding rent for February, 2012, but the Landlord cannot remember what day the Tenant paid the rent. The Tenant has also paid the outstanding rent for June, 2011. The Tenant has paid rent for March, April, May and June, 2012, but has not paid rent for July, 2012. The Tenant had not paid rent that was due on August 1, 2012 at the time of the Hearing.

The Landlord requested an Order of Possession and a Monetary Order for unpaid rent calculated as follows:

Unpaid rent for July, 2011	\$1,400.00
Unpaid rent for August, 2011	\$1,400.00
Unpaid rent for September, 2011	\$1,400.00
Unpaid rent for July, 2012	<u>\$1,400.00</u>
TOTAL	\$5,600.00

### **Analysis**

Based on the Landlord's testimony, I find that in accepting rent for February, March, April, May and June, 2012, the Landlord reinstated the tenancy. Therefore, I find that she cannot end the tenancy based on the Notice issued February 8, 2012. **The Landlord's request for an Order of Possession is dismissed.**

Based on the Landlord's undisputed testimony, I find that she has established her claim for a monetary award in the amount of **\$5,600.00** for unpaid rent.

The Landlord has been successful in her application for a Monetary Order and I find that she is entitled to recover the cost of the **\$100.00** filing fee from the Tenant.

I hereby provide the Landlord a Monetary Order in the amount of **\$5,700.00**. If the Tenant has not paid August's rent by the end of the day on August 1, 2012, the Landlord is at liberty to issue another Notice to End Tenancy for unpaid rent for the month of August, 2012.

### **Conclusion**

I hereby grant the Landlord a Monetary Order in the amount of **\$5,700.00** against the Tenant. This Order must be served on the Tenant and may be filed in the Provincial Court of British Columbia (Small Claims) and enforced as an Order of that Court.

The Landlord's application for an Order of Possession based on the Notice to End Tenancy issued February 8, 2012, is **dismissed**.

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 02, 2012.

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Residential Tenancy Branch