



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: OPR, MNR, MNDC, MNSD, FF

### 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 / compensation for damage or loss under the Act, Regulation or tenancy agreement / retention of the security deposit / and recovery of the filing fee. Both parties participated in the hearing and gave affirmed testimony.

A previous hearing was convened on September 18, 2012 in response to the tenant's application, pursuant to which an order of possession was issued in favour of the landlord. Accordingly, the application for an order of possession included in this current application from the landlord is withdrawn.

### Issue(s) to be Decided

Whether the landlord is entitled to the remaining aspects of the application, as above, under the Act, Regulation or tenancy agreement.

### Background and Evidence

Pursuant to a written tenancy agreement, what eventually became a month-to-month tenancy began on May 1, 2008. Monthly rent of \$2,100.00 is due and payable in advance on the first day of each month, and a security deposit of \$1,050.00 was collected on March 29, 2008. A move-in condition inspection report was completed with the participation of both parties.

The landlord issued a 1 month notice to end tenancy for cause dated July 16, 2012. The notice was served by way of posting on the tenant's door on that same date, as well as by registered mail. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenant must vacate the unit is August 31, 2012. There are miscellaneous reasons shown on the notice for its issuance.

Thereafter, the landlord issued a 10 day notice to end tenancy for unpaid rent dated August 9, 2012. The notice was served in-person on that same date, as well as by registered mail. A copy of the notice was submitted in evidence. Subsequently, the tenant made no further payment toward rent and he continues to reside in the unit.

### Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: [www.rto.gov.bc.ca](http://www.rto.gov.bc.ca)

Based on the documentary evidence and testimony, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent dated August 9, 2012. The tenant did not pay the outstanding rent within 5 days of receiving the notice. Further, while the tenant filed an application to dispute the 1 month notice to end tenancy for cause, which was addressed in the previous decision, he did not file an application to dispute the 10 day notice. As a result, the tenant is conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the 10 day notice.

As for the monetary order, during the hearing the landlord withdrew a portion of the original claim in the amount of \$100.00, that being rent which had been deemed unpaid for June 2012. This amount was withdrawn in view of an agreement reached between the parties outside of the hearing, in regard to rent concessions while renovations were underway in the unit.

Following from the above, I find that the landlord has established a claim of \$6,425.00, which is comprised as follows:

- \$2,100.00: unpaid rent for July
- \$2,100.00: unpaid rent for August
- \$2,100.00: unpaid rent for September
- \$75.00: NSF fees (3 x \$25.00) pursuant to the Rental Agreement Addendum.
- \$50.00: filing fee

I order that the landlord retain the security deposit of \$1,050.00, plus interest of \$11.96 (total: \$1,061.96) and I grant the landlord a monetary order for the balance owed of \$5,363.04 (\$6,425.00 - \$1,061.96).

Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **\$5,363.04**. Should it be necessary, 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: September 21, 2012.

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Residential Tenancy Branch