



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: OPR, MNR, MNSD, FF

### Introduction

This hearing concerns an application by the landlords for an order of possession / a monetary order as compensation for unpaid rent / retention of the security deposit / and recovery of the filing fee. Both parties participated in the hearing and gave affirmed testimony.

### Issue(s) to be Decided

Whether the landlords are entitled to the above under the Act, Regulation or tenancy agreement.

### Background and Evidence

2 previous decisions have been issued in the dispute between these parties: decision dated June 15, 2012 (file #791602) and decision dated July 18, 2012 (file # 791658).

Pursuant to a written tenancy agreement, what ultimately became a month-to-month tenancy began on April 1, 2011. In the decision dated July 18, 2012, the dispute resolution officer found that monthly rent is currently \$800.00 per month. A security deposit of \$400.00 was collected.

In the decision dated July 18, 2012, the dispute resolution officer noted that the tenant received the landlords' 10 day notice to end tenancy for unpaid rent on June 10, 2012. Further, the dispute resolution found as follows:

...I dismiss the tenant's application to cancel the 10 Day Notice, with the effect that this tenancy ended on the corrected effective date of the 10 Day Notice. In this case, this required the tenant to vacate the premises by June 23, 2012. As the landlord made no application or oral request for an Order of Possession, none has been issued.

A portion of the allegedly unpaid rent represented on the 10 day notice, as above, concerns rent for May and June 2012. While the tenant claimed that he had paid rent in cash in care of a lawyer representing a second mortgagee, the dispute resolution officer noted that no receipts had been submitted in evidence. In regard to this present hearing, related evidence includes a copy of a cheque issued by the tenant in the amount of \$800.00 for "May Rent" which was made payable "in trust" to a lawyer representing the holder of a second mortgage on the subject property. However, there is no evidence of receipts issued for any rent payment(s) which may have been made by the tenant.

During the hearing the landlords testified that they are satisfied that rent has now been paid for May 2012. Accordingly, that particular aspect of their application for a monetary order is withdrawn. However, as the tenant still continues to reside in the unit and as he has made no payment of rent further to May, the landlords seek an order of possession and a monetary order as compensation for unpaid rent for June, July, August and September 2012, in addition to recovery of the filing fee.

The tenant claims that while he possesses rent for each of the months subsequent to May, he has received no recent instructions in relation to its payment in association with the legal proceedings.

### 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 of the parties, and in view of findings made in the decision of July 18, 2012, as above, I find that the landlords have established entitlement to an order of possession.

As for the monetary order, I find that the landlords have established entitlement to a claim of \$3,250.00, which is comprised of unpaid rent in the amount of \$800.00 for each of the 4 months of June, July, August & September 2012, plus the \$50.00 filing fee. I order that the landlords retain the security deposit of \$400.00, and I grant the landlords a monetary order for the balance owed of \$2,850.00 (\$3,250.00 - \$400.00).

Conclusion

I hereby issue an **order of possession** in favour of the landlords effective not later than **two (2) days** after service on the tenant. This order must be served on the tenant. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlords in the amount of **\$2,850.00**. 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 24, 2012.

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Residential Tenancy Branch