



# 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 loss of revenue; to retain the security deposit in partial satisfaction of his monetary award; and to recover the cost of the filing fee from the Tenant.

The Landlord gave affirmed testimony at the Hearing.

The Landlord testified that he handed the Notice of Hearing documents and copies of his documentary evidence to the Tenant at the rental unit on September 30, 2012.

Based on the Landlord's affirmed testimony I am satisfied that the Tenant was duly served with the Notice of Hearing documents in accordance with the provisions of Section 89(1)(a) of the Act. Despite being served with the Notice of Hearing documents, the Tenant did not sign into the teleconference and the Hearing proceeded in her absence.

### **Preliminary Matter**

The Landlord stated that on September 30, 2012, after he served the Tenant with the Notice of Hearing documents, the Tenant moved out of the rental unit without returning the key. The Landlord has taken back possession of the rental unit and therefore his application for an Order of Possession is dismissed as it is no longer required.

### **Issues to be Decided**

- Is the Landlord entitled to a Monetary Order for unpaid rent for September, 2012 and loss of revenue for October and November, 2012?

### **Background and Evidence**

The Landlord gave the following testimony and documentary evidence:

The rental unit is the basement suite of a house which is occupied by the Landlord on the main floor. Monthly rent was \$700.00 per month, due the first day of each month. The Tenant paid a security deposit in the amount of \$300.00 on June 30, 2012.

The Tenant did not pay rent when it was due on September 1, 2012, and therefore at 2:00 p.m. on September 5, 2012, the Landlord served the Tenant with a 10 Day Notice

to End Tenancy for Unpaid Rent, by handing it to the Tenant at the rental unit. The Landlord provided a proof of service document, which is also signed by a witness.

The Landlord testified that the Tenant has not paid the Landlord any money towards outstanding rent. The Landlord requested a monetary order for unpaid rent and loss of revenue, calculated as follows:

Unpaid rent for September, 2012	\$700.00
Loss of revenue for October, 2012	\$700.00
Loss of revenue for November, 2012	<u>\$700.00</u>
TOTAL AMOUNT CLAIMED	\$2,100.00

The Landlord asked to apply the security deposit against his monetary award. He testified that he has not yet re-rented the rental unit.

### **Analysis**

I accept that the Landlord served the Tenant with the Notice to End Tenancy on September 5, 2012. Pursuant to the provisions of Section 90 of the Act, service in this manner is deemed to be effected three days after posting the documents. I accept the Landlord's undisputed affirmed testimony that the Tenant did not pay rent, or file for dispute resolution, within 5 days of receiving the Notice to End Tenancy. Therefore, pursuant to Section 46(5) of the Act, the Tenant is conclusively presumed to have accepted that the tenancy ended on September 15, 2012.

The Tenant overheld until September 30, 2012, and therefore I also find that the Landlord is entitled to a monetary award for loss of revenue for the month of October, 2012. I dismiss the Landlord's application for loss of revenue for November 2012. The Landlord is required under Section 7 of the Act to take reasonable steps to minimize his loss of revenue, but did not provide any evidence of attempts that he made to re-rent the rental unit.

Pursuant to Section 72(2)(b) of the Act, the Landlord may apply the security deposit towards partial satisfaction of his monetary award.

The Landlord has been successful in his application and I find that he is entitled to recover the cost of the \$50.00 filing fee from the Tenant.

I hereby provide the Landlord a Monetary Order, calculated as follows:

Unpaid rent for September, 2012	\$700.00
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Loss of revenue for October, 2012	\$700.00
Recovery of the filing fee	<u>\$50.00</u>
Subtotal	\$1,450.00
Less security deposit	<u>- \$300.00</u>
<b>TOTAL AMOUNT DUE TO THE LANDLORD AFTER SET-OFF</b>	<b>\$1,150.00</b>

### **Conclusion**

The Landlord is provided a Monetary Order in the amount of **\$1,150.00** for service upon the Tenant. This Order may be filed in the Provincial Court of British Columbia (Small Claims) 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: October 31, 2012.

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Residential Tenancy Branch