



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes: OPR, MNR, FF

### Introduction

This hearing concerns the landlord's application for an order of possession / a monetary order as compensation for unpaid rent / and recovery of the filing fee. The landlord participated in the hearing and gave affirmed testimony. The landlord testified that the application for dispute resolution and notice of hearing (the "hearing package") was served on the tenants by way of registered mail. However, the tenants did not attend.

### Issue(s) to be Decided

Whether the landlord is entitled to the above under the Act, Regulation or tenancy agreement.

### Background and Evidence

Pursuant to a written tenancy agreement, the month-to-month tenancy began on April 15, 2010. Monthly rent of \$600.00 is due and payable in advance on the first day of each month. The landlord testified that early in 2011 he reduced the monthly rent to \$480.00. While the tenancy agreement includes reference to a \$300.00 security deposit, the landlord testified that no security deposit was ever collected.

Arising from rent which remained overdue on July 1, 2012, the landlord issued a 10 day notice to end tenancy for unpaid rent dated August 21, 2012. The notice was served in person on the tenants on that same date. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenants must vacate the unit is August 31, 2012. Subsequently, on October 17, 2012 the tenants made a payment toward rent in the limited amount of \$480.00. However, no further payment toward rent has been made and the tenants continue to reside in the unit.

### Analysis

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord, I find that the tenants were served with a 10 day notice to end tenancy for

unpaid rent dated August 21, 2012. The tenants did not pay the full amount of outstanding rent within 5 days of receiving the notice and did not apply to dispute the notice. The tenants are therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the notice. Accordingly, I find that the landlord is entitled to an order of possession.

As for the monetary order, I find that the landlord has established entitlement to compensation in the amount of \$1,490.00, which is calculated as follows:

\$480.00: unpaid rent August  
\$480.00: unpaid rent September  
\$480.00: unpaid rent October  
\$50.00: filing fee.

During the hearing the landlord orally requested a monetary order which includes rent which he anticipates will not be paid when due on November 1. However, as it is not yet November, I find that the request is premature and it is therefore dismissed.

### Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **two (2) days** after service on the tenants. This order must be served on the tenants. Should the tenants 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 landlord in the amount of **\$1,490.00**. Should it be necessary, this order may be served on the tenants, 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: October 31, 2012.

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Residential Tenancy Branch