



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes**

MDNC MNSD FF

### **Introduction**

This hearing was convened in response to an Application for Dispute Resolution by the landlord to obtain a Monetary Order for money owed or compensation for damage or loss under the Act, regulation, or tenancy agreement – to recover bailiff's costs associated with enforcement of an Order of Possession dated May 01, 2012 and extended by Supreme Court Order (May 11, 2012) to May 31, 2012. The landlord seeks for the Order to be offset by the security deposit held by the landlord, and to recover the filing fee.

Both parties appeared at the teleconference hearing. Each party was given opportunity to provide their relevant evidence orally, respond to each other's testimony, and to provide all relevant evidence and testimony they wished to provide. A Decision was reached in respect to that which was relevant to the matters before me.

### **Preliminary matters**

The parties concurred that a prior Decision and Order was rendered in respect to the security deposit of this tenancy. As that aspect of the landlord's application has already been dealt with in the appropriate forum the matter of the security deposit is preliminarily removed from consideration in this Decision and is dismissed.

### **Issue(s) to be Decided**

Is the landlord entitled to a Monetary Order?

### **Background and Evidence**

The relevant evidence in this matter is that the tenancy was ordered at an end on May 01, 2012 by an Arbitrator of the Residential Tenancy Branch. The landlord was given an Order of Possession that the tenant was to deliver vacant possession to the landlord 2 days after the tenant being served by the order. A subsequent Order of the Supreme Court of British Columbia dated May 11, 2012 effectively extended the tenancy, allowing the tenant to continue to occupy the rental unit until May 31, 2012. The landlord provided the Supreme Court Order of Mr. Justice Davies in support of this matter. The tenant did not vacate the rental unit by May 31, 2012, and on June 01, 2012 the

landlord obtained a *Writ of Possession* of the Supreme Court enforcing the Order of Possession dated May 01, 2012. The landlord sought the services of a bailiff to realize the execution of the *Writ* enforcing the Order of Possession, and now seeks to recover the costs associated with executing the *Writ*, in the sum amount of \$1082.24 – for which the landlord provided proof of payment.

The tenant agrees that they did not vacate by May 31, 2012, claiming they would have done so had the landlord paid them an amount of \$675.00 as the landlord was ordered to do by the referenced Order of the Supreme Court dated May 11, 2012.

### **Analysis**

On the face of the evidence, I accept that both parties had a duty to abide by the Order of the Supreme Court dated May 11, 2012. In this matter, the tenant was obligated to provide the landlord with vacant possession after May 31, 2012. I find the tenant did not do so, leaving it available to the landlord to have the Order of Possession enforced via the Supreme Court. I find there is only one way to enforce an Order of Possession and the landlord determined to use it. As a result, I find the landlord's costs associated with enforcing the order are valid and therefore I grant the landlord their cost / loss to enforce the order in the claimed amount of \$ 1082.24. As the landlord was successful in their application, I grant the landlord recovery of their filing fee in the amount of \$50.00, for a sum award of **\$1132.24**.

### **Conclusion**

**I grant** the landlord an Order under Section 67 of the Act for the amount of **\$1132.24**. If necessary, this Order may be filed in the Small Claims Court and enforced as an Order of that Court.

**This Decision is final and binding on both parties.**

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: December 17, 2012

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Residential Tenancy Branch