



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, FF

### Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order of Possession - Section 55;
2. A Monetary Order for unpaid rent - Section 67;
3. An Order to recover the filing fee for this application - Section 72.

I accept the Landlord’s evidence that the Tenant was served with the application for dispute resolution and notice of hearing by personal service on September 16, 2011 in accordance with Section 89 of the Act. The Tenant did not participate in the conference call hearing.

The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

### Issue(s) to be Decided

Is the notice to end tenancy valid?

Is the Landlord entitled to an Order of Possession?

Is the Landlord entitled to the monetary amounts claimed?

### Background and Evidence

The tenancy began on November 4, 2006. Rent in the amount of \$1,050.00 is payable in advance on the first day of each month. On April 5, 2011, the Landlord obtained an Order of Possession and a monetary order for rental arrears on the unit. The monetary order included a reduction for the security deposit plus interest to the date of the

monetary order in the amount of \$515.54. The Landlord states that the Order of Possession was not enforced as the Tenant made a payment for May 2011 rent and promised to pay ongoing rent as due. The Landlord states that the tenancy was reinstated as a result of the rent payment and promise to pay.

The Tenant failed to pay rent for June, July and August 2011 and on August 31, 2011, the Landlord personally served the Tenant with a notice to end tenancy for non-payment of rent. The Tenant has also not paid the rental arrears, has not filed an Application for Dispute Resolution and has not moved out of the unit. The Landlord claims unpaid rent for June, July, August, and September 2011 rent in the amount of \$4,200.00 and requests an Order of Possession effective October 31, 2011. The Landlord also claims unpaid rent for October 2011.

#### Analysis

Section 46 of the Act requires that upon receipt of a Notice to End Tenancy for non-payment of rent the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If the tenant does neither of these two things, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice.

Based on the Landlord's evidence I find that the Tenant was served with a notice to end tenancy for non-payment of rent and I find the notice to be valid. The Tenant has not filed an application to dispute the notice, has not paid the outstanding rent and has not moved out of the unit. Given these facts, I find that the Landlord is entitled to an **Order of Possession**. I also find that the Landlord has established a monetary claim for **\$4,200.00** in unpaid rent for June, July, August and September 2011. As the application was not amended in advance of the hearing to include a claim for October 2011 rent, I dismiss this part of the Landlord's claim with leave to reapply. The Landlord is entitled to recovery of the \$50 filing fee, for a total entitlement of **\$4,250.00**.

Conclusion

**I grant** an Order of Possession to the Landlord. The Tenant must be served with this **Order of Possession**. 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.

I grant the Landlord an order under Section 67 of the Act for the amount of **\$4,250.00**. If necessary, this order may be 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 17, 2011.

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Residential Tenancy Branch