



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPR, MNR

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession for unpaid rent pursuant to section 55; and
- a monetary order for unpaid rent pursuant to section 67.

The tenants did not attend this hearing, although I waited until 9:43 a.m. in order to enable them to connect with this teleconference hearing scheduled for 9:30 a.m. The landlord's agent (the landlord) attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions. The landlord testified that she handed the female tenant a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) on July 3, 2012. The landlord testified that in the presence of the male tenant she handed the female tenant copies of the landlord's dispute resolution hearing package on July 17, 2012. I am satisfied that the landlord served these documents to the tenants in accordance with the *Act*.

### Issues(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent? Is the landlord entitled to a monetary award for unpaid rent?

### Background and Evidence

This periodic tenancy commenced on February 1, 2012. Monthly rent is set at \$550.00, payable in advance on the first of each month. The landlord continues to hold the tenants' \$275.00 security deposit paid on or about January 20, 2012.

The landlord testified that she issued the 10 Day Notice when the tenants failed to pay one-half of their rent for July 2012. She testified that they have failed to pay any portion of the \$275.00 identified as owing in the 10 Day Notice. She noted that the tenants have not paid anything towards their August 2012 rent and she is uncertain if they have abandoned their suite. The tenants have not returned their keys to her, nor have they advised her that they were vacating the rental unit. The landlord has no forwarding address for the tenants. At the hearing, she asked for an Order of Possession and consideration of a monetary award for unpaid rent for one half of July 2012 and for August 2012.

Analysis

The tenants failed to pay the \$275.00 in rent identified as outstanding within five days of receiving the 10 Day Notice. The tenants have not made application pursuant to section 46(4) of the *Act* within five days of receiving the 10 Day Notice. In accordance with section 46(5) of the *Act*, the tenants' failure to take either of these actions within five days led to the end of their tenancy on the effective date of the notice. In this case, this required the tenants to vacate the premises by July 13, 2012. As it remains unclear as to whether that has occurred and whether the tenants have abandoned the rental unit, I find that the landlord is entitled to a 2 day Order of Possession. The landlord will be given a formal Order of Possession which must be served on the tenant(s). If the tenants do not vacate the rental unit within the 2 days required, the landlord may enforce this Order in the Supreme Court of British Columbia.

I find that the landlord is entitled to a monetary award of \$275.00 for unpaid rent for July 2012 and an additional \$275.00 for unpaid rent for the first half of August 2012. I do so as it may be possible for the landlord to locate another tenant for a portion of August 2012 and it remains unclear as to whether the tenants have already abandoned the rental unit.

Although the landlord's application does not seek to retain the tenants' security deposit, using the offsetting provisions of section 72 of the *Act*, I allow the landlord to retain the security deposit plus applicable interest in partial satisfaction of the monetary award. No interest is payable over this period.

Conclusion

I provide the landlord with a formal copy of an Order of Possession to take effect within 2 days of the landlord's service of this notice to the tenant(s). Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I issue a monetary Order in the landlord's favour under the following terms which allows the landlord to recover unpaid rent and to retain the tenants' security deposit:

<b>Item</b>	<b>Amount</b>
Unpaid July 2012 Rent	\$275.00
Unpaid Rent for First Half of August 2012	275.00
Less Security Deposit	-275.00
<b>Total Monetary Order</b>	<b>\$275.00</b>

The landlord is provided with these Orders in the above terms and the tenant(s) must be served with a copy of these Orders as soon as possible. Should the tenant(s) fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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: August 08, 2012

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Residential Tenancy Branch