



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards  
Ministry of Housing and Social Development

## DECISION

Dispute Codes: OPR, MNR, MNSD, & FF

### Introduction:

This hearing dealt with an application by the landlords seeking an Order of Possession and a monetary claim due to non-payment of rent by the tenants. The landlords also seek to retain the tenants' security deposit plus interest in partial satisfaction of this claim. Both parties appeared for the hearing and had the opportunity to be heard and respond to the evidence of the other party.

### Issues to be Determined:

Is the landlord entitled to an Order of Possession and a monetary claim due to non-payment of rent by the tenants? Is the landlord entitled to retain the tenants' security deposit plus interest in partial satisfaction of this claim?

### Background and Evidence:

This tenancy began on February 1, 2008 for the monthly rent of \$1,500.00 and a security deposit of \$750.00. The tenants fell behind in rent in October 2008 and are currently behind in rent by \$3,843.85 after a small sum of \$185.00 was paid on December 3, 2008.

The landlord served the tenants with a ten day Notice to End Tenancy due to non-payment of rent on November 14, 2008. The tenants had five days to either dispute the notice or to pay the outstanding rent. Having failed to exercise either of these rights the tenants are conclusively presumed to have accepted the end of the tenancy pursuant to section 46(5) of the *Act*.

The tenants stated that they can pay the outstanding rental arrears by December 19, 2008. On this basis the landlord has agreed to an Order of Possession effective **December 22, 2008 at 1:00 p.m.** If the tenants pay the outstanding rental arrears by the end of the day on December 19, 2008 then the landlord will reinstate the tenancy. However, if the tenants fail to pay the outstanding rent the landlord may enforce the Order of Possession through the Supreme Court of British Columbia.

I find that the landlord has established a total monetary claim of \$3,893.85 including the recovery of the \$50.00 filing fee paid by the landlord for this application. If the tenants pay this sum by December 19, 2008 there will no longer be any sum owing to the landlord. However, in the event that the tenants fail to pay this sum and the tenancy

ends, I Order that the landlord may retain the tenants' security deposit plus interest of \$759.81 in partial satisfaction of this claim.

I grant the landlord a monetary Order for the remaining balance of **\$3,134.04** in the event that the tenancy ends due to the tenants' failure to pay the outstanding sum and the tenancy ends. This Order may be filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

Conclusion:

The landlord's application is granted. I have provided the landlord an Order of Possession and a monetary claim due to the tenants' failure to pay rent. The landlord has agreed to give the tenants until the end of December 19, 2008 to pay the sum of \$3,893.85 owing. If the tenants pay the sum owing then the tenancy will continue and the Orders will be void.

Dated December 15, 2008.

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Dispute Resolution Officer