



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

### Dispute Codes

CNL, CNR, OPR, OPL, MNR, MNSD, & FF

### Introduction

This hearing dealt with cross applications by the parties. Both parties appeared, gave testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross examine the other party, and make submissions to me.

### Issues(s) to be Decided

Is the 10 day Notice to End Tenancy Due to Unpaid Rent valid?  
Is the two month Notice to End Tenancy for Landlord's Use of the Rental Unit valid?  
Has the landlord established a monetary claim due to unpaid rent?  
Are the tenants entitled to compensation due to loss of services or facilities or due to overpayment of utilities?

### Background and Evidence

This tenancy began on March 1, 2006 for the monthly rent of \$850.00 and a \$425.00 security deposit. On July 16, 2009 the landlord served the tenants a two month Notice to End Tenancy for Landlord's Use of the Rental Unit and on August 14, 2009 the landlord served the tenants with a 10 day Notice to End Tenancy Due to Unpaid Rent. The tenants did not dispute the two month Notice to End Tenancy and were required to vacate the rental unit as of September 30, 2009.

The tenants have not vacated the rental unit and have not paid any rent since July 2009. The tenants made numerous complaints during the hearing including that:

- They have had no key to the rental unit for three weeks and have been in a hotel room;
- They have overpaid the rent by \$3,000.00; and
- That services or facilities were cut off for a day or possibly more either on August 2, 2009 or September 2 or 3<sup>rd</sup>, 2009.

The tenants provided no evidence to support their allegations.

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The landlord indicated that there was a verbal agreement between the wives of the parties that the tenants would pay 50% of the utility costs. Therefore, apparently the tenants have been paying rent of \$850.00 per month, for which receipts have been issued, and then paying an addition \$120 to \$130 in utilities with no receipts.

The landlord seeks an Order of Possession and a monetary claim due to lost rent for August 2009.

### Analysis

I find that the tenants have failed to establish that they lost any services or facilities or that they have no keys to the rental unit. I find that the tenants may have a claim for compensation due to breach of the tenancy agreement surrounding the payment of utilities; however, this portion of the tenants' claim is dismissed with leave to re-apply as the tenants failed to identify this possible claim as part of this application.

I find that the tenants' have breached the tenancy agreement by failing to pay rent for August 2009 and the 10 day Notice to End Tenancy Due to Unpaid Rent is valid. I also find that the two month Notice to End Tenancy for Landlord's Use of the Rental Unit is valid. Therefore, I grant the landlord's request for an Order of Possession and for a monetary claim for \$850.00 due to unpaid rent.

### Conclusion

I grant the landlord an Order of Possession effective October 12, 2009 at **1:00 p.m.** This Order may be filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

I find that the landlord is entitled to monetary compensation pursuant section 67 in the amount of **\$900.00** comprised of \$850.00 rent owed and the \$50.00 fee paid by the 439.69 in partial satisfaction of the claim and grant an order for the balance due of **\$460.31**. This order must be served on the tenant and may be filed in the Provincial Court (Small Claims) 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 06, 2009.

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Dispute Resolution Officer