



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      OPR, CNR, MNR, FF

### Introduction

This matter dealt with an application by the Landlord for an Order of Possession and a Monetary Order for unpaid rent and to recover the filing fee for this proceeding. The Tenants applied to cancel a Notice to End Tenancy for Unpaid Rent and for compensation for damage or loss under the Act or tenancy agreement.

The Landlord said he served the Tenants in person on October 14, 2009 at 4:30 p.m. with a copy of the Application and Notice of Hearing. Based on the Landlord's evidence, I find that the Tenants were served as required by s. 89 of the Act and the hearing proceeded in their absence. The Landlord admitted that he was served by the Tenants with a copy of their application.

### Issues(s) to be Decided

1. Is the Landlord entitled to end the tenancy?
2. Are there arrears of rent and if so, how much?
3. Are the Tenants entitled to compensation for damages and if so, how much?

### Background and Evidence

This tenancy started on January 15, 2009. Rent is \$775.00 per month payable in advance on the 1<sup>st</sup> day of each month.

The Landlord claims that the Tenants had arrears of \$315.00 for August 2009 rent, \$775.00 for September 2009 and did not pay rent for October 2009 when it was due and as a result, on October 2, 2009 the Landlord posted a 10 day Notice to End Tenancy for Unpaid Rent dated October 2, 2009 on the Tenants' door. The Landlord said that the Tenants have not paid the arrears set out on the Notice in the amount of \$1,865.00 and are now in arrears of rent for November, 2009.

The Tenants alleged in their application that they were seeking compensation for \$1,000.00 for a roach and rat infestation. The Landlord denied that there was an infestation as alleged and claimed that he has a policy whereby any requested repairs must be requested in writing by a tenant and when the repair is made, it is noted in



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writing by the Landlord. The Landlord provided a number of such written requests made by the Tenants and argued that the Tenants never complained to him about roaches or rats.

## Analysis

Section 46(4) of the Act states that **within 5 days of receiving** a Notice to End Tenancy for Unpaid Rent or Utilities, a Tenant must either pay the overdue rent or apply for dispute resolution. Although the Tenants applied to dispute the 10 Day Notice within the time limits under the Act, I find that there are no grounds for their application because the Tenants have failed to pay the overdue rent. Consequently, the Tenants application to cancel the 10 Day Notice is dismissed without leave. I find pursuant to s. 55(1) of the Act that the Landlord is entitled to an Order of Possession to take effect 48 hours after service of it on the Tenants.

I also find that the Landlord is entitled to recover rent arrears in the amount of \$1,865.00 for August, September and October 2009, \$465.00 for unpaid rent for November 1 – 18, 2009, \$310.00 for a loss of rental income for November 19 – 30, 2009 as well as the \$50.00 filing fee for this proceeding. Consequently, the Landlord will receive a monetary order for \$2,690.00. I find that there is insufficient evidence to support the Tenants' application for compensation and it is also dismissed without leave to reapply.

## Conclusion

The Tenants' application is dismissed without leave to reapply. An Order of Possession to take effect 48 hours after service of it on the Tenants and a Monetary Order in the amount of **\$2,690.00** have been issued to the Landlord. A copy of the Orders must be served on the Tenants; the Order of Possession may be enforced in the Supreme Court of British Columbia and the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia.

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: November 18, 2009.

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Dispute Resolution Officer