



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      OPR, MNR, FF

### Introduction

This hearing was convened upon an application by the landlord seeking:

1. An Order of Possession for Cause;
2. A monetary order for unpaid rent;
3. Recovery of the filing fee paid for this application.

The tenants did not appear. The landlord testified that he served the tenants with the Application for Dispute Resolution and Notice of Hearing package by way of registered mail sent December 16, 2009. Based on the landlord's evidence I am satisfied that the tenants were properly served as required by the Act.

### Issues(s) to be Decided

Whether the landlord is entitled to receive an Order of Possession for Cause, a monetary order for unpaid rent and recovery of the filing fee he has paid for this application.

### Background and Evidence

The landlord testified that he served the tenants with a 1 month Notice to End Tenancy for Cause. The landlord testified that the rent is fixed at \$340.00 per month and the tenants have been repeatedly late paying rent. The landlord says he has not been

served with an Application for Dispute Resolution filed by the tenants wishing to dispute the Notice to End Tenancy for Cause that he served on the tenants.

Therefore the landlord is also seeking an Order of Possession.

The landlord says he has not been served with an Application for Dispute Resolution with respect to the Notice to End Tenancy for Cause that he served on the tenants. Therefore the landlord is also seeking an Order of Possession. The landlord testified that the tenants have not paid any rent at all for the months of December 2009, January and February 2010. The landlord therefore seeks a monetary order for rental arrears in the sum of \$1,020.00 for the rental arrears. In addition, the landlord seeks \$75.00 representing \$25.00 late rental payment charges pursuant to the written tenancy agreement made between the parties.

The landlord is also seeking recovery of registered mail fees and recovery of the filing fee.

### Analysis

#### **Order of Possession**

The evidence shows that the tenants have for Cause. The undisputed evidence of the landlord is that the tenants have not served the landlord with an application seeking to cancel the Notice. The time limit to make an application to cancel the Notice has passed. The Act says that if the tenant does not dispute the Notice to End Tenancy the tenant has been deemed to have accepted the end of the tenancy on the date set out in the Notice. I therefore find that the landlord is entitled to an Order of Possession.

The date by which the tenant was to have vacated the rental unit as shown on the Notice to End Tenancy is January 17, 2010. This date is wrong but the Act allows for automatic correction of the date. The effective date of the Notice should have been January 31, 2009. However as that date has now passed and the evidence is that the

tenants have not vacated the rental unit. I find therefore that the landlord is entitled to a two day Order of Possession. The landlord will be given a formal Order of Possession which must be served on the tenants. If the tenants do not vacate the rental unit within the 2 days as required, the landlord may enforce this Order in the Supreme Court of British Columbia.

### **Monetary Order**

I accept the undisputed evidence of the landlord that there are rental arrears and I will award the landlord a monetary order for those arrears in the sum of \$1,020.00 in addition, pursuant to the tenancy agreement, I will award \$75.00 late payment fees.

### **Filing Fees**

As the landlord has been successful in this application I find that the landlord is entitled to recover the \$50.00 fee paid for this application.

### ***Calculation of total Monetary Award***

Rental Arrears	\$1,020.00
Late Fees	75.00
Filing Fees for the cost of this application	50.00
Total Monetary Award	\$1,145.00

### **Conclusion**

The landlord is provided with an Order of Possession as set out above. This Order must be served on the tenants forthwith. 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.

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