



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

### **Dispute Codes:**

OPR; MNR; MNSD; FF

### **Introduction**

This is the Landlords' application for an Order of Possession; a Monetary Order for unpaid rent; to retain the security deposit in partial satisfaction of their monetary claim; and to recover the cost of the filing fee from the Tenants.

The parties gave affirmed testimony at the Hearing.

The Tenants were served with the Notice of Hearing documents in person on November 14, 2010

### **Issues to be Decided**

- Is the Landlord entitled to an Order of Possession?
- Is the Landlord entitled to a Monetary Order for unpaid rent?

### **Background and Evidence**

This tenancy started on October 1, 2010. The Tenants moved out of the rental unit on November 17 or 18, 2010. Monthly rent was \$950.00, due on the first day of each month. Utilities were not included in the rent. The Tenants' share of utilities was 40%. The Tenants paid a security deposit in the amount of \$475.00 at the beginning of the tenancy.

The Landlord FO lives in the upstairs suite of the house. The Tenants lived in the downstairs suite. The Landlord SO lives in Alberta.

The Landlords testified that the Tenants did not give Notice that they were moving out of the rental unit. The Landlords are seeking unpaid rent for only a portion of November (November 1 – 18, 2010). The Landlords testified that the Tenants did not pay their share of utilities for the short time that they lived in the rental unit. The Landlords provided copies of the utility bills, invoice for airline tickets, move-in condition inspection report and tenancy agreement in evidence

The Landlords seek a monetary award, calculated as follows:

Unpaid utilities for October, 2010 (40%)	\$84.85
18 days of prorated rent for November, 2010	\$569.99
18 days of prorated utilities for November, 2010	\$50.90
Tenant's share of cable for October, as agreed	\$15.00
Recovery of SO's cost to fly to rental unit	\$545.84
Compensation for Landlords' time	<u>\$500.00</u>
TOTAL	\$1,766.58

The Tenant agreed that the Tenants' portion of utilities was 40% and that they had not paid for their portion of utilities. The Tenant agreed that the Tenants had an oral agreement to pay for ½ of the cable bill for the month of October, 2010. The Tenant stated that the Tenants did not pay any rent for November, 2010, and did not give the Landlords written notice that they were moving out. The Tenant testified that the Landlords served the Tenants with a 10 Day Notice to End Tenancy for Unpaid Rent on November 2, 2010, and the Tenants moved as a result of that Notice.

The Tenant did not provide a forwarding address at the Hearing.

### **Analysis**

The tenancy has ended and therefore the Landlord's application for an Order of Possession is not necessary and is dismissed.

The Landlords asked to recover the cost of the Landlord SO's airfare and for compensation for time spent dealing with the end of the tenancy and filing their application. These costs are not recoverable under the Act and this portion of the Landlords' claim is dismissed.

The Landlords seek prorated rent only, from November 1 – 18, 2010, in the amount of \$569.99. The Landlords are entitled to unpaid rent for November and this portion of their claim is granted.

The Tenants did not pay for their portion of utilities for October or November, 2010. Pursuant to the terms of the tenancy agreement, and based on the documentary evidence provided by the Landlords, this portion of the Landlords' claim is also granted in the amount of \$135.75. The Tenant agreed that the Tenants had an oral agreement to pay for half of the cable bill for the month of October. This portion of the Landlords' claim is also granted in the amount of \$15.00.

Pursuant to Section 72(2)(b) of the Act, the Landlords may apply the security deposit towards partial satisfaction of the Landlords' monetary claim. No interest has accrued on the security deposit.

The Landlords have been successful in their application and are entitled to recover the cost of the \$50.00 filing fee from the Tenants.

The Landlords have established a monetary claim as follows:

Unpaid rent for November, 2010 (prorated, pursuant to Landlords' application)	\$569.99
Tenants' share of unpaid utilities	\$135.75
Tenants' share of cable for October, 2010, as agreed by parties	\$15.00
Recovery of the filing fee	\$50.00
Subtotal	\$770.74
Less security deposit	- \$475.00
<b>TOTAL AMOUNT DUE TO THE LANDLORD AFTER SET-OFF</b>	<b>\$295.74</b>

**Conclusion**

I hereby grant the Landlords a Monetary Order in the amount of \$295.74 against the Tenants. This Order must be served on the Tenants and may be filed in the Provincial Court of British Columbia (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: December 20, 2010.

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