



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, MNDC, MNSD, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the landlords for an order of possession, a monetary order and to recover the filing fee.

Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail on August 25, 2011, neither tenant appeared. The landlord testified that each tenant was served via registered mail to the address at which the tenants reside, provided the tracking number for each registered mail envelope and successfully demonstrated sufficient delivery of the documents under Section 89 of the Residential Tenancy Act (the "Act"). Thus the hearing proceeded in the tenants' absence.

The landlord appeared, gave affirmed testimony and was provided the opportunity to present his evidence orally and in documentary form, and make submissions to me.

### Issue(s) to be Decided

Have the tenants breached the Residential Tenancy Act (the "Act") or tenancy agreement, entitling the landlords to an Order of Possession and monetary relief?

### Background and Evidence

The landlord testified that this month to month tenancy began on March 1, 2009, monthly rent is \$2,000.00, and a security deposit of \$1,000.00 was paid by the tenants at the beginning of the tenancy, on or about March 1, 2009.

The landlord gave affirmed testimony and supplied evidence that the tenants were served with a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice") on August 12, 2011, by posting on the door. The Notice stated the amount of unpaid rent was \$10,000.00. Documents served in this manner are deemed served three days later under section 90 of the Act. Thus the effective vacancy date of August 12, 2011, listed on the Notice is automatically corrected to August 25, 2011.

The Notice informed the tenants that the Notice would be cancelled if the rent was paid within five days. The Notice also explained the tenants had five days to dispute the Notice.

I have no evidence before me that the tenants applied to dispute the Notice. The landlord provided evidence and gave affirmed testimony that the tenants have not made any rent payments since issuance of the Notice and currently owe unpaid rent of \$12,000.00 through the date of the hearing.

### Analysis

Based on the above testimony and evidence, and on a balance of probabilities, I find as follows:

The tenants have not paid the outstanding rent and did not apply to dispute the Notice and are therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

I find that the landlords are entitled to an order of possession effective **two days** after service on the tenants.

I am enclosing an order of possession with the landlords' Decision. This order is a **legally binding, final order**, and may be filed in the Supreme Court of British Columbia should the tenants fail to comply with this order of possession.

I find that the landlords have established a total monetary claim of **\$12,100.00** comprised of outstanding rent of **\$12,000.00** and the **\$100.00** filing fee paid by the landlords for this application.

At the landlords' request, I allow the landlords to retain the tenants' security deposit of **\$1,000.00** in partial satisfaction of the claim and I grant the landlords a monetary order under authority of section 67 of the Act for the balance due of **\$11,100.00**.

I am enclosing a monetary order for **\$11,100.00** with the landlords' Decision. This order is a **final, legally binding order**, and may be filed in the Provincial Court of British Columbia (Small Claims) should the tenants fail to comply with this monetary order.

### Conclusion

The landlords are granted an Order of Possession, may keep the tenants' security deposit in partial satisfaction of the claim and are granted a monetary order for **\$11,100.00.**

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: September 27, 2011.

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Residential Tenancy Branch