



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: OPR, MNR, FF

### Introduction

This hearing was convened in response to an application by the landlords for an order of possession / a monetary order as compensation for unpaid rent or utilities / and recovery of the filing fee. One of the landlords attended and gave affirmed testimony.

Despite service by registered mail with the application for dispute resolution and notice of hearing (the “hearing package”), the tenants did not appear. Evidence submitted by the landlords includes the Canada Post tracking number for the registered mail.

### Issue(s) to be Decided

Whether the landlords are entitled to any of the above under the Act, Regulation or tenancy agreement.

### Background and Evidence

A previous hearing was held in a dispute between these same parties on August 31, 2001, with a decision issued by the same date (file # 777972).

Pursuant to a written tenancy agreement, the term of tenancy is from November 1, 2010 to October 30, 2011. Thereafter, the tenancy agreement provides that the tenancy will continue on a month-to-month basis. Monthly rent of \$950.00 is payable in advance on the 1<sup>st</sup> day of each month, and a security deposit of \$475.00 was collected.

Arising from rent which was unpaid when due on November 1, 2011, the landlords issued a 10 day notice to end tenancy for unpaid rent dated November 17, 2011. A copy of the notice was submitted in evidence. The notice was served by registered mail. Evidence submitted by the landlords includes the Canada Post tracking number for the registered mail, and the Canada Post website informs that the notice was “successfully delivered.” Subsequently, the tenants have made no further payments toward rent and they continue to reside in the unit.

### Analysis

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord, I find that the tenants were served with a 10 day notice to end tenancy for unpaid rent dated November 17, 2011. The tenants did not pay the outstanding rent within 5 days of receiving the notice and did not apply to dispute the notice. The tenants 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. Accordingly, I find that the landlords have established entitlement to an order of possession.

As for the monetary order, I find that the landlords have established entitlement to a claim of \$1,985.00. This is comprised of \$950.00 in unpaid rent and \$15.00 for parking with respect to November, \$950.00 in unpaid rent and \$15.00 for parking with respect to December, a \$5.00 fee assessed by the bank arising from a stop payment put on November's rent cheque by the tenants, and the \$50.00 filing fee.

The landlords' application does not include application to retain the security deposit.

### Conclusion

I hereby issue an order of possession in favour of the landlords effective not later than **two (2) days** after service on the tenants. This Order must be served on the tenants. Should the tenants fail to comply with the Order, the Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

Pursuant to section 67 of the Act, I hereby issue a monetary order in favour of the landlords in the amount of \$1,985.00. This Order may be served on the tenants, filed in the Small Claims Court 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 15, 2011.

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Residential Tenancy Branch