



# Dispute Resolution Services

Page: 1

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 landlord 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 personal delivery on November 18, 2011, neither tenant appeared. The landlord testified that each tenant was served via personal delivery 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 landlord to an Order of Possession and monetary relief?

### Background and Evidence

The landlord testified that this 6 month, fixed term tenancy began on November 1, 2011, monthly rent is \$650.00, and a security deposit of \$300.00 was paid by the tenants at the beginning of the tenancy. The tenants also were obligated to pay \$161.00 for utilities.

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 November 8, 2011, by personal delivery. The Notice stated the amount of unpaid rent was \$650.00, plus unpaid utilities of \$246.00.

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 \$650.00 as of the end of November 2011.

### 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 landlord is entitled to an order of possession effective **two days** after service on the tenants.

I am enclosing an order of possession with the landlord's 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.

Section 46 of the Act states that if the utility charges, in this case the hydro bill, are unpaid more than 30 days after the tenant is given a written demand for payment of them, the landlord may treat the unpaid utility charges as unpaid rent and may give notice under this section.

As the landlord did not submit evidence of a written demand for the utility charges or proof that he has incurred a cost for utilities as of the day of the hearing, I **dismiss** his claim for \$241.00 for a hydro bill, **with leave to reapply**.

I find that the landlord has established a total monetary claim of **\$700.00** comprised of outstanding rent of **\$650.00** through November 2011, and the **\$50.00** filing fee paid by the landlord for this application.

At the landlord's request, I allow the landlord to retain the tenant's security deposit of **\$300.00** in partial satisfaction of the claim and I grant the landlord a monetary order under authority of section 67 of the Act for the balance due of **\$400.00**.

I am enclosing a monetary order for **\$400.00** with the landlord's 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 landlord is granted an Order of Possession, may keep the tenants' security deposit in partial satisfaction of the claim and is granted a monetary order for **\$400.00**.

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: December 02, 2011.

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Residential Tenancy Branch