



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: OPR, MNR, FF

### Introduction

This hearing was scheduled in response to the landlord's application for an order of possession / a monetary order as compensation for unpaid rent / and recovery of the filing fee. The landlord's agent participated in the hearing and gave affirmed testimony.

The landlord's application for dispute resolution and notice of hearing (the "hearing package") was sent to each of the tenants by way of registered mail on December 30, 2011. Evidence submitted by the landlord includes the Canada Post tracking number for the registered mail. The Canada Post website informs that as at January 9, 2012, the packages "will be returned to sender if not collected within 10 days."

### Issue(s) to be Decided

Whether the landlord is entitled to any of the above under the Act, Regulation or tenancy agreement.

### Background and Evidence

Pursuant to a written tenancy agreement, the fixed term of tenancy is from July 15, 2011 to July 14, 2012. Monthly rent of \$990.00 is payable in advance on the first day of each month, and a security deposit of \$495.00 was collected.

Arising from rent which was unpaid when due on December 1, 2011, the landlord issued a 10 day notice to end tenancy for unpaid rent dated December 13, 2011. The notice was served in person on one of the tenants on that same date. A copy of the notice was submitted in evidence. Subsequently, the tenants made no further payment toward rent.

After giving 24 hours written notice of intent to inspect the unit, the landlord entered the unit on December 31, 2010. At that time the landlord determined that the tenants had apparently abandoned the unit without providing any notice or any forwarding address.

## Analysis

Based on the documentary evidence and the undisputed testimony of the landlord's agent, I find that the tenants were served with a 10 day notice to end tenancy for unpaid rent dated December 13, 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 landlord is entitled to an order of possession.

As for the monetary order, I find that the landlord has established a claim of \$1,040.00:

\$990.00: unpaid rent for December 2011

\$ 50.00: filing fee

I order that the landlord retain the security deposit of \$495.00, and I grant the landlord a monetary order under section 67 of the Act for the balance owed of \$545.00 (\$1,040.00 - \$495.00).

As previously noted, it was not until December 31, 2011 when the landlord determined that the tenants had apparently abandoned the unit. As to recovery of loss of rental income effective from January 1, 2012, the landlord has the option of making an application for dispute resolution, in order to seek a monetary order as compensation for damage or loss under the Act, Regulation or tenancy agreement.

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: [www.rto.gov.bc.ca](http://www.rto.gov.bc.ca) In particular, section 88 of the Act speaks to **How to give or serve documents generally**. Section 89 addresses **Special rules for certain documents**, and provides in part as follows:

89(1) An application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 5, when required to be given to one party by another, must be given in one of the following ways:

(a) by leaving a copy with the person;

(b) if the person is a landlord, by leaving a copy with an agent of the landlord

- (c) by sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;
- (d) if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;
- (e) as ordered by the director under section 71(1) [*director's orders: delivery and service of documents*].

### Conclusion

I hereby issue an **order of possession** in favour of the landlord 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 landlord in the amount of **\$545.00**. 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: January 16, 2012.

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Residential Tenancy Branch