



# 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 was scheduled in response to the landlord's application for an order of possession / a monetary order as compensation for unpaid rent / compensation for damage or loss under the Act, Regulation or tenancy agreement / retention of the security deposit / and recovery of the filing fee. The landlord's agent participated in the hearing and gave affirmed testimony. Despite in-person service of the application for dispute resolution and notice of hearing (the "hearing package") on January 12, 2012, the tenants did not appear.

### 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 September 1, 2011 to January 31, 2012. Thereafter, the agreement provides that the tenancy will continue on a month-to-month basis. Monthly rent of \$1,250.00 is payable in advance on the first day of each month, and a security deposit of \$625.00 was collected.

Arising from rent which was unpaid when due on January 1, 2012, the landlord issued a 10 day notice to end tenancy for unpaid rent. A copy of the notice was submitted in evidence. The landlord's agent testified that the notice was meant to be dated January 3, 2012, but was mistakenly dated January 13, 2012. The notice was served in person on the tenants on January 3, 2012. Subsequently, the tenants made a payment toward rent in the limited amount of \$675.00 on January 20, 2012, for which the landlord issued a receipt for "use and occupancy only." The tenants have presently 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's agent, I find that the tenants were served on January 3, 2012 with a 10 day notice to end tenancy for unpaid rent. The tenants did not pay the full amount of rent outstanding 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 has established entitlement to an order of possession.

As for the monetary order, I find that the landlord has established entitlement to \$650.00. This is comprised of the balance of unpaid rent for January 2012 in the amount of \$575.00 (\$1,250.00 - \$675.00), and the \$25.00 fee assessed for late payment of rent (pursuant to the tenancy agreement), in addition to the \$50.00 filing fee. I order that the landlord retain the security deposit of \$625.00, and I grant the landlord a monetary order under section 67 of the Act for the balance owed of \$25.00 (\$650.00 - \$625.00).

### 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 **\$25.00**. Should it be necessary, 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 30, 2012.

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Residential Tenancy Branch