



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** OPR; MNR; FF

### **Introduction**

This is the Landlords' application for an Order of Possession; a Monetary Order for unpaid rent; and to recover the cost of the filing fee from the Tenants.

The Landlord gave affirmed testimony at the Hearing.

The Landlord testified that the Notice of Hearing documents and copies of the Landlords' documentary evidence were mailed to each of the Tenants, via registered mail, to the rental unit on December 2, 2011. The Landlords provided copies of the registered mail receipts and tracking numbers in evidence.

Based on the documentary evidence and affirmed testimony of the Landlord, I am satisfied that both of the Tenants were duly served with the Notice of Hearing documents by registered mail. Service in this manner is deemed to be effected 5 days after mailing the documents. Despite being served with the Notice of Hearing documents, the Tenants did not sign into the teleconference and the Hearing proceeded in their absence.

### **Issues to be Decided**

- Is the Landlord entitled to an Order of Possession?
- Is the Landlord entitled to a Monetary Order for unpaid rent?

### **Background and Evidence**

The Landlord gave the following testimony and evidence:

This tenancy began on November 7, 2009. A copy of the tenancy agreement was provided in evidence. The tenancy agreement included an option to purchase the rental unit at any time before October 31, 2011, for \$435,000.00. The Landlord testified that none of the rent went towards the purchase price and that the option was in place to protect the Tenants regarding the purchase price if they chose to exercise their option to purchase.

Monthly rent is \$1,630.00, due the first day of each month. The Landlord testified that the Tenants were supposed to pay an \$800.00 security deposit, but that it was never paid.

The Landlord testified that the Tenants owe rent in the amount of \$884.94 which was due on November 1, 2011. The Landlord issued a Notice to End Tenancy on November 22, 2011, and served the Tenants with the Notice by posting it on their door on November 22, 2011. The Landlord testified that no rent has been paid for the month of December, 2011, and asked that the Landlords be awarded loss of revenue in the amount of \$1,630.00 for December, 2011.

The Landlord testified that the Tenants are still living in the rental unit. He stated that the rental unit is currently listed for sale and that the Tenants are cooperating well with the listing agent. He stated that the Tenants have asked the Landlords if they can stay in the rental unit until January 31, 2012. The Landlord asked for an Order of Possession effective January 31, 2012.

### **Analysis**

I accept that the Landlords served the Tenants with the Notice to End Tenancy by posting the Notice on the Tenant's door on November 22, 2011. Pursuant to the provisions of Section 90 of the Act, service in this manner is deemed to be effected three days after posting the documents. The Tenants did not pay all of the arrears, or file for dispute resolution, within 5 days of receiving the documents. Therefore, pursuant to Section 46(5) of the Act, the Tenants are conclusively presumed to have accepted that the tenancy ended on December 5, 2011. The Landlord is entitled to an Order of Possession and I make that Order, **effective 1:00 p.m., January 31, 2012 2 days after service of the Order upon the Tenants.**

The Landlords have established a monetary award for unpaid rent for the month of November in the amount of \$884.94 and loss of revenue for the month of December in the amount of \$1,630.00 for a ~~in the~~ total amount of \$2,494.94.

The Landlords have been successful in their application and are entitled to recover the cost of the \$50.00 filing fee from the Tenants.

### **Conclusion**

I hereby provide the Landlords an Order of Possession effective **1:00 p.m., January 31, 2012 2 days after service of the Order upon the Tenants.** This Order must be served

on the Tenants and may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

I hereby provide the Landlords a Monetary Order in the amount of **\$2,544.94** for service upon the Tenants. This Order may be filed in the Provincial Court of British Columbia (Small Claims) 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 09, 2012.

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Residential Tenancy Branch