



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** OPR; MNR; MND; MNDC; MNSD

### **Introduction**

This is the Landlord's application for an Order of Possession; a Monetary Order for unpaid rent, damage to the rental unit and compensation for damage or loss under the *Residential Tenancy Act* (the "Act"), regulation or tenancy agreement; and to retain the security deposit in partial satisfaction of her monetary award.

The Landlord gave affirmed testimony at the Hearing.

The Landlord testified that the Notice of Hearing documents and copies of her documentary evidence were mailed to each of the Tenants, via registered mail, to the rental unit on January 10, 2012. The Landlord provided the original registered mail receipts and tracking numbers for the registered documents.

Based on the Landlord's documentary evidence and affirmed testimony, 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, and if so, in what amount?

### **Background and Evidence**

The Landlord gave the following testimony and evidence:

This tenancy commenced April 28, 2011. Monthly rent is \$1,050.00, due the 28th day of each month. The Tenants paid a security deposit in the amount of \$550.00 at the beginning of the tenancy. The Landlord provided a copy of the tenancy agreement in evidence.

The Tenants did not pay rent when it was due on December 28, 2011. On December 29, 2011, the Landlord's agent served the Tenants with a *10 Day Notice to End*

*Tenancy for Unpaid Rent* (the “Notice”) by posting the Notice to the Tenants’ door at the rental unit. The Tenants have not paid any of the outstanding rent.

The Landlord testified that the Tenants have caused damage to the rental unit, but she does not know the extent of the damage yet.

### **Analysis**

I accept that the Landlord served the Tenants with the Notice to End Tenancy by posting the Notice on the Tenant’s door on December 29, 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 January 10, 2012. I find that the Tenants are overholding and that the Landlord is entitled to an Order of Possession effective 2 days after service of the Order upon the Tenants.

I find that the Landlord has established a monetary award for unpaid rent in the amount of \$1,050.00.

The remainder of the Landlord’s application is premature. I dismiss the Landlord’s application for damages and compensation for damage or loss, with leave to reapply.

Pursuant to Section 72(2)(b) of the Act, the Landlord may apply the security deposit towards partial satisfaction of the Landlord’s monetary award. No interest has accrued on the security deposit.

The Landlord has established a monetary claim as follows:

Unpaid rent	\$1,050.00
Less security deposit	\$550.00
<b>TOTAL AMOUNT DUE TO THE LANDLORD AFTER SET-OFF</b>	<b>\$500.00</b>

### **Conclusion**

The Landlord’s application for damages and compensation for damage or loss is **dismissed with leave to reapply.**

I hereby provide the Landlord an Order of **Possession** effective **2 days after service of the Order upon the Tenants**. This Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

I hereby provide the Landlord a Monetary Order in the amount of \$500.00 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 25, 2012.

---

Residential Tenancy Branch