



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPR, MNR, MNDC, FF

### Introduction

This hearing dealt with the landlords' application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent and for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67; and
- authorization to recover their filing fee for this application from the tenants pursuant to section 72.

The tenants did not attend this hearing, although I waited until 11:15 a.m. in order to enable them to connect with this teleconference hearing scheduled for 11:00 a.m. The landlords attended the hearing and were given a full opportunity to be heard, to present evidence and to make submissions. The landlords' agent (the agent) gave sworn testimony in support of a written submission entered into evidence by one of her colleagues that he handed Tenant QS the 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) at 7:36 p.m. on July 19, 2012. The agent testified that she sent the tenants a copy of the landlords' dispute resolution hearing package by registered mail on August 11, 2012. She entered into written evidence a copy of the Canada Post Tracking Numbers to confirm these registered mailings. She gave sworn testimony that the Canada Post On-Line Tracking System indicated that these registered mailings were delivered on August 14, 2012. I am satisfied that the landlords served the above documents to the tenants in accordance with the *Act*.

### Issues(s) to be Decided

Are the landlords entitled to an Order of Possession for unpaid rent? Are the landlords entitled to a monetary award for unpaid rent and losses arising out of this tenancy? Are the landlords entitled to recover the filing fee for this application from the tenants?

### Background and Evidence

This periodic tenancy began on June 27, 2012. Monthly rent is set at \$1,950.00, payable in advance on the first of each month. Both the agent and Landlord NS gave sworn testimony that no security or pet damage deposits were paid for this tenancy.

The 10 Day Notice was issued to the tenants seeking \$995.00 in outstanding rent that was identified as owing on July 19, 2012. The agent testified that no payments have been made by the tenants towards this tenancy since that date.

The landlords applied for a monetary award of \$2,945.00 plus the recovery of the landlords' filing fee for this application. At the hearing and after the landlord's written evidence was reviewed, the agent stated that the correct amount of the requested monetary award should be \$2,935.00 plus the \$50.00 filing fee. I have amended the landlords' requested amount for the monetary award accordingly.

The agent testified that a pro-rated amount of \$325.00 was owing for June 2012, at a pro-rated amount of \$65.00 per day. Monthly rent of \$1,950.00 was due on July 1, 2012 and on August 1, 2012. The agent entered oral and written evidence that the following payments have been made by the tenants towards their rent:

- June 27 - \$50.00
- June 30 - \$100.00
- July 2 - \$165.00
- July 6 - \$500.00
- July 7 - \$300.00
- July 12 - \$100.00
- July 14 - \$75.00

### Analysis

The tenants failed to pay the full amount of rent identified as owing on the 10 Day Notice within five days of receiving that Notice. The tenants have not made application pursuant to section 46(4) of the *Act* within five days of receiving the 10 Day Notice. In accordance with section 46(5) of the *Act*, the tenants' failure to take either of these actions within five days led to the end of their tenancy on the effective date of the notice. In this case, this required the tenants to vacate the premises by July 29, 2012. As that has not occurred, I find that the landlords are entitled to a 2 day Order of Possession. The landlords will be given a formal Order of Possession which must be served on the tenant(s). If the tenants do not vacate the rental unit within the 2 days required, the landlords may enforce this Order in the Supreme Court of British Columbia.

Based on the undisputed oral and written evidence submitted by the landlords, I find that the landlords are entitled to a monetary award of \$1,950.00 for each of July and August 2012, for a total of \$3,900.00. I find that the landlords are entitled to a pro-rated monetary award of \$260.00 for June 2012, as the tenants are responsible for four days rent at \$65.00 per day for that month. I find that the tenants have paid a total of

\$1,290.00 in rent during this period. This results in my finding that the landlords are entitled to a monetary award for unpaid rent of \$2,870.00 for this tenancy.

I also allow the landlords to recover their \$50.00 filing fee for their application.

Conclusion

I provide the landlords with a formal copy of an Order of Possession to take effect within 2 days of the landlords' service of this notice to the tenant(s). Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I issue a monetary Order in the landlords' favour in the amount of \$2,920.00, an amount which reflects the landlords' entitlement to \$2,870.00 in unpaid rent ( $\$3,900.00 + \$260.00 - \$1,290.00 = \$2,870.00$ ) and the \$50.00 recovery of their filing fee from the tenants. The landlords are provided with these Orders in the above terms and the tenant(s) must be served with a copy of these Orders as soon as possible. Should the tenant(s) fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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: August 22, 2012

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Residential Tenancy Branch