



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** OPC; MNR; MNDC, MNSD; FF

### **Introduction**

This matter was convened to consider an Application that was filed on September 19, 2012, and amended on September 21, 2012. It is the Landlords' Application seeking an Order of Possession; a Monetary Order for loss of revenue, to retain the security deposit in satisfaction of their monetary award; and to recover the cost of the filing fee from the Tenant.

The Landlords' agent gave affirmed testimony at the Hearing.

The Landlords' agent testified that the Notice of Hearing documents for the amended Application were mailed to the Tenants, via registered mail, to the rental unit on September 22, 2012. The Landlords provided the registered mail receipt and tracking number in evidence.

Based on the affirmed testimony of the Landlords' agent and the documentary evidence provided by the Landlords, I am satisfied that the Tenant was 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 Tenant did not sign into the teleconference and the Hearing proceeded in her absence.

### **Issues to be Decided**

- Are the Landlords entitled to an Order of Possession?
- Are the Landlords entitled to a monetary award, and if so, in what amount?

### **Background and Evidence**

The Landlords' agent gave the following testimony and evidence:

The tenancy began on July 31, 2012. Monthly rent is \$500.00. The Tenant paid a security deposit in the amount of \$250.00 and a pet damage deposit in the amount of \$250.00 on August 1, 2012.

On August 31, 2012, the Landlords' agent served the Tenant with a One Month Notice to End Tenancy for Cause, by hand delivering the Notice on the Tenant at the rental unit. The Tenant has not disputed the Notice.

The Landlords' agent stated that the Tenant paid \$250.00 towards October rent on October 14, 2012, but that \$250.00 remains outstanding. She stated that the Tenant advised her that she would be moving out of the rental unit at the end of October, 2012.

The Landlords' agent asked for an Order of Possession effective 2 days after service of the Order upon the Tenant.

### **Analysis**

I accept that Landlords' agent's undisputed testimony that the Tenant was served with the Notice to End Tenancy on August 31, 2012. The Tenant did not dispute the Notice within 10 days of receiving it. Therefore, pursuant to the provisions of Section 47(5) of the Act, the Tenant is conclusively presumed to have accepted that the tenancy ended on September 30, 2012. I find that the Tenant is overholding and that the Landlords are entitled to an Order of Possession effective 2 days after service of the Order upon the Tenant.

Based on the undisputed testimony of the Landlords' agent, I find that the Landlords have suffered loss of revenue in the amount of **\$250.00** as a result of the Tenant's breach of the Act.

Pursuant to Section 72(2)(b) of the Act, the Landlords may apply the security deposit in satisfaction of the Landlords' monetary award.

The Landlords have been successful in their application and I find that they are entitled to recover the cost of the **\$50.00** filing fee from the Tenant. Pursuant to Section 72(2)(b) of the Act, the Landlords may apply \$50.00 from the pet damage deposit for recovery of the filing fee. The remainder of the pet damage deposit must be administered in accordance with the provisions of the Act.

### **Conclusion**

The Landlords are provided an Order of Possession **effective 2 days after service of the Order upon the Tenant**. This Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

The Landlords are awarded recovery of the filing fee and a monetary award for loss of revenue in the total amount of **\$300.00**, which they may deduct from the security and

pet damage deposits. The balance of the deposits in the amount of \$200.00 must be applied in accordance with the provisions of the Act.

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: October 24, 2012.

---

Residential Tenancy Branch