



# 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 concerns 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 participated in the hearing and gave affirmed testimony. Despite service of the application for dispute resolution and notice of hearing (the "hearing package") by way of registered mail, neither tenant appeared. Evidence submitted by the landlord includes the Canada Post tracking numbers for each of the two packages of registered mail, and the Canada Post website informs that both items were "successfully delivered."

### Issue(s) to be Decided

Whether the landlord is entitled to the above under the Act, Regulation or tenancy agreement.

### Background and Evidence

Pursuant to a written tenancy agreement, what became a month-to-month tenancy began on July 15, 2011. Monthly rent of \$1,400.00 is due and payable in advance on the first day of each month, and a security deposit of \$700.00 was collected.

Arising from rent which remained overdue on September 1, 2012, the landlord issued a 10 day notice to end tenancy for unpaid rent dated September 13, 2012. The notice was served by way of posting on the tenants' door on that same date. A copy of the notice was submitted in evidence. Subsequently, the tenants made no further payment toward rent and they continue to reside in the unit.

Further to the loss of rental income, the landlord has claimed certain costs related to electrical repairs made at the unit. The individual hired by the landlord to undertake the

electrical repairs was of the view that damage was the result, in part, of the tenants having overloaded the electrical circuits. However, the landlord was clear that this individual is not a certified electrician.

In addition to all of the above, the landlord seeks to recover costs arising from hiring legal counsel to assist in representing him at this hearing.

### Analysis

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord, I find that the tenants were served with a 10 day notice to end tenancy for unpaid rent dated September 13, 2012. The tenants did not pay the outstanding rent 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 a claim of \$2,950.00, which is calculated as follows:

\$100.00: unpaid rent for August  
\$1,400.00: unpaid rent for September  
\$1,400.00: unpaid rent for October  
\$50.00: filing fee

I order that the landlord retain the security deposit of \$700.00, and I grant the landlord a monetary order under section 67 of the Act for the balance owed of \$2,250.00 (\$2,950.00 - \$700.00).

As to the landlord's claim for costs associated with electrical repairs, I find that there is insufficient evidence to support the proposition that these repairs are the result of reckless or improper conduct on the part of the tenants. This aspect of the application is therefore dismissed.

Finally, section 72 of the Act addresses **Director's orders: fees and monetary orders**. With the exception of the filing fee for an application for dispute resolution, the Act does

not provide for the award of costs associated with litigation to either party to a dispute. Accordingly, the landlord's claim for reimbursement of legal fees is hereby dismissed.

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 **\$2,250.00**. 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: October 31, 2012.

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Residential Tenancy Branch