



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **REVIEW DECISION**

Dispute Codes: OPR, MNR

### Introduction

Arising from a Direct Request Proceeding, where a hearing is not required, the landlord's application for an order of possession and a monetary order as compensation for unpaid rent were addressed by way of decision dated October 16, 2012. Pursuant to the decision, an order of possession and a monetary order as compensation for unpaid rent in the amount of \$1,250.00 were issued in favour of the landlord.

Subsequently, the tenants filed an Application for Review Consideration. By Review Consideration Decision dated October 24, 2012, the tenants' application was granted, and the decision of October 16, 2012 was suspended until such time as a new hearing is completed. Both parties attended this hearing and gave affirmed testimony.

During the hearing the tenants testified that they have now vacated the unit. Accordingly, the landlord withdrew his application for an order of possession.

### Issue(s) to be Decided

Whether the landlord is entitled to a monetary order as compensation for unpaid rent under the Act, Regulation or tenancy agreement.

### Background and Evidence

Pursuant to a written tenancy agreement, the month-to-month tenancy began on January 15, 2011. Monthly rent of \$1,250.00 is due and payable in advance on the first day of each month, and a security deposit of \$625.00 was collected.

Arising from rent which the landlord claims was not paid when due on September 1, 2012, the landlord issued a 10 day notice to end tenancy for unpaid rent dated September 29, 2012. The notice was served in-person on that same date. A copy of the notice was submitted in evidence.

There is considerable narrative around what arrangements were made and what agreements were reached between the parties, concerning payment of rent during the tenancy. In short, however, after the tenants received the decision dated October 16, 2012, they prepared to vacate the unit and had removed all of their possessions by on or about October 24, 2012. The landlord testified that new renters were found effective November 15, 2012.

During the hearing the parties discussed how much rent remained unpaid, in addition to the disposition of the security deposit, and undertook to achieve some resolution.

### Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: [www.rto.gov.bc.ca](http://www.rto.gov.bc.ca)

Section 63 of the Act speaks to the **Opportunity to settle dispute**. While it appears that there may still be a number of unresolved issues between the parties which lead to future applications for dispute resolution, pursuant to section 63 of the Act, discussion between the parties during the hearing led to at least a partial resolution. Specifically, it was agreed as follows:

### **RECORD OF SETTLEMENT**

- that the tenants owe rent to the landlord in the total amount of \$2,800.00, as follows:

\$625.00: *August*

\$925.00: *September*

\$1,250.00: *October*

- that the landlord will retain the security deposit of \$625.00, and that a monetary order will be issued in favour of the landlord for the balance owed of \$2,175.00 (\$2,800.00 - \$625.00).

Section 82 of the Act speaks to **Review of director's decision or order**, and provides in part:

82(3) Following the review, the director may confirm, vary or set aside the original decision or order.

Following from all of the above and pursuant to section 82(3) of the Act, the decision by date of October 16, 2012 is hereby set aside.

Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **\$2,175.00**. 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: November 29, 2012.

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Residential Tenancy Branch