



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes**

Landlords: OPR, MNR and FF  
Tenants: CNR

### **Introduction**

This hearing was convened on applications by both the landlord and the tenants.

By application of October 19, 2012, the landlord sought an Order of Possession pursuant to a Notice to End Tenancy for unpaid rent served in person on October 8, 2012. The landlord also sought a Monetary Order for the unpaid rent and recovery of the filing fee for this proceeding.

By application of October 15, 2012, the tenants sought to have the Notice to End Tenancy set aside.

### **Issue(s) to be Decided**

Is the landlord entitled to an Order of Possession in support of the Notice to End Tenancy and a Monetary Order for the unpaid rent, or should the notice be set aside?

### **Background and Evidence**

This tenancy began on March 1, 2011. Rent is \$750 per month and the landlord holds a security deposit of \$390 paid at the beginning of the tenancy.

During the hearing, the landlord gave evidence that the Notice to End Tenancy had been served when the tenants had failed to pay the rent due on September 1, 2012 and on October 2012. In the interim, the arrears remains unpaid and the tenants have not paid the rent due on November 1, 2012.

The attending tenant concurred fully with the landlord's evidence and made explanation of dire personal circumstances that had led to the inability to pay the rent. He stated that matters had now taken a turn for the better and he expected to be able to pay the outstanding rent within the near future.

The landlord stated she might reconsider extending the tenancy if the full arrears was paid within the next few days but requested the Order of Possession and the Monetary Order in the event the rent was not brought up to date very shortly.

### Analysis

Section 26 of the *Act* provides that tenants must pay rent when it is due.

Section 46 of the *Act* provides that a landlord may issue a Notice to End Tenancy for unpaid rent on a day after the rent is due. The tenant may cancel the notice by paying the overdue rent or make application to dispute the notice within five days of receiving it.

In this instance, I find that while the tenants did make application to contest the notice, they concur that the rent is now three months in arrears. Therefore, I find that the landlord is entitled to an Order of Possession to take effect three days from service of it on the tenants as requested. Having upheld the Notice to End Tenancy on the landlord's application, I must dismiss the tenants' application without leave to reapply.

I further find that the landlord is entitled to a Monetary Order for the unpaid rent for September, October and November of 2012 and recovery of the filing fee for this proceeding.

Thus, I find that the tenants owe to the landlord an amount calculated as follows:

|                                 |                   |
|---------------------------------|-------------------|
| Rent for September 2012         | \$750.00          |
| November 2012 rent/loss of rent | 750.00            |
| Filing fee                      | <u>50.00</u>      |
| <b>TOTAL</b>                    | <b>\$2,300.00</b> |

Conclusion

The landlord's copy of this decision is accompanied by an Order of Possession, enforceable through the Supreme Court of British Columbia, to take effect three days from service of it on the tenants.

The landlord's copy of this decision is also accompanied by a Monetary Order for **\$2,300.00**, enforceable through the Provincial Court of British Columbia, for service on the tenants.

The tenants' application is dismissed without leave to reapply.

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 19, 2012.

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Residential Tenancy Branch