



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPR, MNR, MNSD, FF

### Introduction

This hearing dealt with the landlord's 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 pursuant to section 67;
- authorization to retain all or a portion of the tenants' security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover his filing fee for this application from the tenants pursuant to section 72.

The tenants did not attend this hearing, although I waited until 11:13 a.m. in order to enable them to connect with this teleconference hearing scheduled for 11:00 a.m. The landlord attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions. The landlord testified that he handed Tenant AA the 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) on November 17, 2012. The landlord sent all four tenants copies of his dispute resolution hearing package by registered mail on November 30, 2012. Canada Post Tracking Numbers were provided to confirm these mailings, three of which were successfully delivered on December 4, 2012. The landlord's counsel said that the hearing package mailed to Tenant BEA was returned as unclaimed. I am satisfied that the landlord served the above documents to the tenants in accordance with the *Act*.

### Issues(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent? Is the landlord entitled to a monetary award for unpaid rent? Is the landlord entitled to retain all or a portion of the tenants' security deposit in partial satisfaction of the monetary award requested? Is the landlord entitled to recover the filing fee for this application from the tenants?

### Background and Evidence

This periodic tenancy commenced on March 10, 2012. Monthly rent is set at \$1,500.00, payable in advance on the first of each month. The landlord continues to hold the tenants' \$750.00 security deposit paid on or about March 10, 2012.

The landlord issued the 10 Day Notice for unpaid rent of \$1,030.00 for November 2012, when he received only \$470.00 in rent for that month. The landlord testified that he has not received any further payments towards this tenancy since he issued the 10 Day Notice. I agreed to the landlord's request to seek an additional \$1,500.00 in unpaid rent owing from January 2013, to the \$2,530.00 requested in the landlord's application for a monetary award for unpaid rent owing from November and December 2012. The revised amount of the landlord's claim for a monetary award is \$4,030.00, plus the recovery of his \$50.00 filing fee.

### Analysis

The tenants failed to pay the \$1,030.00 in outstanding rent owing from November 2012 identified 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 corrected effective date of the notice. In this case, this required the tenants to vacate the premises by November 27, 2012. As that has not occurred, I find that the landlord is entitled to a 2 day Order of Possession. The landlord will be given a formal Order of Possession which must be served on the tenant. If the tenant does not vacate the rental unit within the 2 days required, the landlord may enforce this Order in the Supreme Court of British Columbia.

Based on the landlord's undisputed evidence, I find that the landlord is entitled to a monetary award of \$1,030.00 for unpaid rent owing as of November 1, 2012, \$1,500.00 for December 2012, and \$1,500.00 for January 2013.

I allow the landlord to retain the tenants' security deposit plus applicable interest in satisfaction of the above monetary award. No interest is payable over this period. I allow the landlord to recover his \$50.00 filing fee from the tenants.

### Conclusion

I provide the landlord with a formal copy of an Order of Possession to take effect within 2 days of the landlord's 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 landlord's favour under the following terms, which allows the landlord to recover unpaid rent and his filing fee, and to retain the tenants' security deposit:

Item	Amount
Unpaid November 2012 Rent	\$1,030.00
Unpaid December 2012 Rent	1,500.00
Unpaid January 2013 Rent	1,500.00
Less Security Deposit	-750.00
Recovery of Filing Fee for this Application	50.00
<b>Total Monetary Order</b>	<b>\$3,330.00</b>

The landlord is 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 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: January 09, 2013

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Residential Tenancy Branch

