



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** OPR; OPC; OPB; MNDC; FF

### **Introduction**

This is the Landlord's application for an Order of Possession, a Monetary Order for unpaid rent, and to recover the cost of the filing fee from the Tenants.

The Landlord gave affirmed testimony at the Hearing.

The Landlord testified that the Notice of Hearing documents and copies of her documentary evidence were hand delivered to the Tenants at the rental unit on January 16, 2013, with a witness present. The Landlords provided a signed statement of the witness which indicates that she was with the female Landlord on January 16, 2013, at 12:30 p.m., when the documents were served.

Based on the Landlord's affirmed and documentary evidence, I am satisfied that the Tenants were duly served with the Notice of Hearing documents and copies of the Landlord's evidence in accordance with the provisions of the Act. Despite being served with the Notice of Hearing documents, the Tenants did not sign into the teleconference and the Hearing proceeded in their absence.

### **Issues to be Decided**

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

### **Background and Evidence**

The Landlord gave the following testimony:

A copy of the tenancy agreement was provided in evidence. This tenancy began on October 1, 2012. Monthly rent is \$550.00, due on the first day of each month. Although the tenancy agreement shows that the Tenants were required to pay a security deposit in the amount of \$300.00, the Landlord testified that the Tenants paid only \$250.00, in cash, at the beginning of the tenancy.

The Landlord stated that the Tenants did not pay rent when it was due on January 1, 2013, so she issued a Notice to End Tenancy for Unpaid Rent on January 4, 2013. The Landlord testified that she hand delivered the Notice to End Tenancy to the Tenants at

the rental unit on January 4, 2013, with a witness present. The Landlords provided a signed statement of the witness which indicates that she was with the female Landlord on January 4, 2013, at 7:00 p.m., when the Notice was served.

The Landlord testified that the Tenants remain in the rental unit and have not paid any of the outstanding rent. The Landlord asked to apply the security deposit towards her monetary award.

### **Analysis**

I accept the Landlord's undisputed testimony that she served the Tenants with the Notice to End Tenancy on January 4, 2013. I also accept the Landlord's undisputed testimony that the Tenants did not pay any of the arrears within 5 days of receiving the Notice to End Tenancy, nor did they file an application to cancel the Notice to End Tenancy. Therefore, pursuant to Section 46(5) of the Act, the Tenants are conclusively presumed to have accepted that the tenancy ended on January 14, 2013. I find that the Tenants are overholding and that the Landlords are entitled to an Order of Possession effective 2 days after service of the Order upon the Tenants.

I find that the Landlords are entitled to a monetary award in the amount of \$550.00 for unpaid rent for the month of January, 2013. Pursuant to Section 72(2)(b) of the Act, the Landlords may apply the security deposit towards partial satisfaction of their monetary claim. No interest has accrued on the security deposit.

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 Tenants.

I hereby provide the Landlords with Monetary Order, calculated as follows:

Unpaid rent for January, 2013	\$550.00
Recovery of the filing fee	<u>\$50.00</u>
Subtotal	\$600.00
Less security deposit	<u>- \$250.00</u>
<b>TOTAL AMOUNT DUE TO THE LANDLORDS AFTER SET-OFF</b>	<b>\$350.00</b>

### **Conclusion**

I hereby provide the Landlords with an Order of Possession **effective 2 days after service of the Order upon the Tenants**. This Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

I hereby provide the Landlords with a Monetary Order in the amount of **\$350.00** for service upon the Tenants. This Order may be filed in the Provincial Court of British Columbia (Small Claims) 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: February 08, 2013

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Residential Tenancy Branch

