



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNR, MNSD, OPR

### Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim. Despite having been served with the application for dispute resolution and notice of hearing by registered mail sent on January 21, the tenants did not participate in the conference call hearing.

At the hearing, the landlord asked to amend his application to include a claim for loss of income for February. I find that the tenants should reasonably have known that the landlord could not re-rent the unit while they were still residing therein and I allow the amendment. The landlord withdrew his claim for unpaid rent for December as that amount was paid by the tenants after he filed his application for dispute resolution.

### Issues to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order for unpaid rent and loss of income?

### Background and Evidence

The landlord's undisputed evidence is as follows. The tenancy began on or about August 2008 at which time the tenants paid a \$435.00 security deposit. Currently, rent in the amount of \$891.00 is payable in advance on the first day of each month. The tenants failed to pay rent in the month of December 2012 and on December 2 the landlord personally served the female tenant with a notice to end tenancy. The tenants eventually paid December's rent at the end of January, but did not make any payments for January and February 2013.

### Analysis

I accept the landlord's undisputed testimony and I find that the tenants did not pay rent when it was due in the month of December 2012 and I further find that on December 2 they were served with a notice to end tenancy for non-payment of rent. The tenants did

not pay the outstanding rent within 5 days of receiving the notice and did not apply for dispute resolution to dispute the notice and are therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice. Based on the above facts I find that the landlord is entitled to an order of possession. The tenants must be served with the order of possession. 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.

As for the monetary order, I find that the landlord is entitled to recover loss of income for the months of January and February 2013 as well as the \$50.00 filing fee paid to bring this application for a total entitlement of \$1,832.00. I order that the landlord retain the \$435.00 security deposit and the \$2.73 in interest which has accrued to the date of this judgment in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$1,394.27. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

### Conclusion

The landlord is granted an order of possession and a monetary order for \$1,394.27. The landlord may retain the security deposit.

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 14, 2013

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Residential Tenancy Branch

