



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: OPR, MNR, FF

### Introduction

This hearing was scheduled in response to the landlord's application for an order of possession / a monetary order as compensation for unpaid rent / and recovery of the filing fee. The landlord attended and gave affirmed testimony.

Despite service of the application for dispute resolution and notice of hearing (the "hearing package") by way of registered mail to each of the two tenants, neither tenant appeared. Evidence submitted by the landlord includes the Canada Post tracking numbers for the registered mail.

### Issue(s) to be Decided

Whether the landlord is entitled to the above under the Act, Regulation or tenancy agreement.

### Background and Evidence

Pursuant to a written tenancy agreement signed on July 20, 2012, the month-to-month tenancy began on August 1, 2012. Monthly rent of \$800.00 is due and payable in advance on the first day of each month, and the landlord testified that a security deposit of \$400.00 was collected.

Arising from rent for December 2012, January 2013 and February 2013, which remained unpaid on February 1, 2013, the landlord issued a 10 day notice to end tenancy for unpaid rent dated February 18, 2013. The notice was served in-person on that same date. A copy of the notice was submitted in evidence. The total amount of rent shown on the notice as overdue is \$2,400.00. The date shown on the notice by when the tenants must vacate the unit is February 28, 2013. Subsequently, the tenants have made no further payment toward rent and they continue to reside in the unit.

### 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)

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord, I find that the tenants were served with a 10 day notice to end tenancy for unpaid rent dated February 18, 2013. The tenants did not pay the outstanding rent within 5 days of receiving the notice, and did not apply to dispute the notice. The tenants are therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the notice. Accordingly, I find that the landlord has established entitlement to an **order of possession**.

As for the **monetary order**, I find that the landlord has established a claim of **\$3,250.00**:

\$3,200.00: *unpaid rent of \$800.00 for each of the 4 months of December 2012, January, February & March 2013.*

\$50.00: *filing fee.*

Section 72 of the Act speaks to **Director's orders: fees and monetary orders**, in part:

72(2) If the director orders a party to a dispute resolution proceeding to pay any amount to the other, including an amount under subsection (1), the amount may be deducted

(b) in the case of payment from a tenant to a landlord, from any security deposit or pet damage deposit due to the tenant.

Following from all the above, I order that the landlord retain the security deposit of **\$400.00**, and I grant the landlord a **monetary order** under section 67 of the Act for the balance owed of **\$2,850.00** (\$3,250.00 - \$400.00).

### Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **two (2) days** after service on the tenants. This order must be served on the tenants. 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.

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **\$2,850.00**. 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: March 22, 2013

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Residential Tenancy Branch

