



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Lantern Properties Ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes:** OPR; MNR; MNDC, MNSD; FF

### **Introduction**

This is the Landlords' application for an Order of Possession; a Monetary Order for unpaid rent and loss of revenue; to retain the security deposit in partial satisfaction of their monetary claim; and to recover the cost of the filing fee from the Tenant.

The Landlord BA gave affirmed testimony at the Hearing.

The Landlord BA testified that the Notice of Hearing documents were mailed to the Tenant, via registered mail, to the rental unit on February 21, 2013. The Landlords provided the registered mail receipt and tracking numbers in evidence.

Based on the BA's affirmed testimony and the documentary evidence provided by the Landlords, I am satisfied that the Tenant was duly served with the Notice of Hearing documents by registered mail. Service in this manner is deemed to be effected 5 days after mailing the documents. Despite being served with the Notice of Hearing documents, the Tenant did not sign into the teleconference and the Hearing proceeded in his absence.

### **Issues to be Decided**

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

### **Background and Evidence**

The Landlord BA gave the following testimony and documentary evidence:

Monthly rent is \$695.00, due the first day of each month. The Tenant paid a security deposit in the amount of \$350.00 on January 18, 2012.

The Tenant did not pay rent when it was due on December 1, 2012 or January 1, 2013. On January 2, 2013 at 10:00 a.m., the Landlord BA served the Tenant with a 10 Day Notice to End Tenancy for Unpaid Rent, by posting the Notice on the Tenant's door at the rental unit.

The Tenant has not paid any of the outstanding rent and now owes rent for December, January, February and March in the total amount of \$2,780.00.

The Landlord BA stated that the Tenant may have moved out of the rental unit, but she is not sure because there is still furniture in the rental unit. Therefore, the Landlord BA is not comfortable making a determination that the Tenant has abandoned the rental unit. She asked for an Order of Possession.

### **Analysis**

I accept that the Landlord BA served the Tenant with the Notice to End Tenancy by posting the Notice on the Tenant's door on January 2, 2013. Pursuant to the provisions of Section 90 of the Act, service in this manner is deemed to be effected three days after posting the documents. The Tenant did not pay the arrears, or file for dispute resolution, within 5 days of receiving the documents. Therefore, pursuant to Section 46(5) of the Act, the Tenant is conclusively presumed to have accepted that the tenancy ended on January 15, 2013. Based on the undisputed testimony of the Landlord BA, I find that the Landlords are entitled to an Order of Possession and a monetary Order for unpaid rent in the amount of \$2,780.00.

Pursuant to Section 72(2)(b) of the Act, the Landlords may apply the security deposit towards partial satisfaction of the Landlords' monetary award. 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 Tenant.

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

Unpaid rent and loss of revenue for February and March, 2013	\$2,780.00
Recovery of the filing fee	<u>\$50.00</u>
Subtotal	\$2,830.00
Less security deposit	<u>- \$350.00</u>
<b>TOTAL AMOUNT DUE TO THE LANDLORDS AFTER SET-OFF</b>	<b>\$2,480.00</b>

### **Conclusion**

I hereby provide the Landlords with an Order of Possession **effective 2 days after service of the Order upon the Tenant**. 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 **\$2,480.00** for service upon the Tenant. 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: March 19, 2013

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Residential Tenancy Branch

