



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, OPC, MNR, MNDC, FF

### Introduction

This is an application filed by the Landlord for an order of possession for unpaid rent and an order of possession for cause. The Landlord also seeks a monetary order for unpaid rent, for money owed or compensation for damage or loss and the recovery of the filing fee.

Both parties attended the hearing by conference call and gave testimony. As both parties have attended the hearing and have confirmed receipt of the notice of hearing I am satisfied that both parties have been properly served. Both parties acknowledged receiving the submitted documentary evidence submitted by the other party.

The Tenants seek an adjournment of the hearing to apply for a cross application. The Landlord objects as she does not wish for a delay in obtaining an order of possession. The Tenants have not provided any details of a reason for a delay in making an application for dispute resolution over issues regarding payment for paint and the pet damage deposit from September 2012. I find that the Tenant has failed to provide sufficient details of any reasons for delay that I would adjourn the hearing that would cause a prejudice to the Landlord. The Tenant's adjournment request is denied.

### Issue(s) to be Decided

Is the Landlord entitled to an order of possession?

Is the Landlord entitled to a monetary order?

### Background and Evidence

This Tenancy began on September 1, 2012 on a fixed term tenancy until August 31, 2013 as stated on the submitted copy of the signed tenancy agreement. The monthly

rent is \$2,000.00 payable on the 1<sup>st</sup> of each month. A security deposit of \$1,000.00 and a pet damage deposit of \$500.00 were paid.

Both parties agreed that the Landlord served the Tenant with a 10 day notice to end tenancy issued for unpaid rent and a 1 month notice to end tenancy issued for cause on March 4, 2013 by Canada Post Registered Mail. The Landlord has submitted copies of the Canada Post Registered Mail Customer Receipts as confirmation. The 10 day notice dated March 4, 2013 states that rent of \$2,575.00 was due on March 1, 2013 and was unpaid. The Tenant has acknowledged that rent arrears of \$575.00 for February and \$2,000.00 for March were unpaid at the time. The notice also states an effective date of the notice for March 20, 2013. Both parties have acknowledged that a partial rent payment of \$1,800.00 was made on March 12, 2013 for which the Landlord issued a receipt "for use and occupancy only" leaving a balance due of \$775.00. The Landlord has also included in their documentary evidence 4 - 10 day notices to end tenancy issued for unpaid rent for February 2013, January 2013, December 2012 and November 2012, all sent by Canada Post Registered Mail to the Tenant.

The Landlord's 1 month notice to end tenancy issued for cause dated March 4, 2013 had a stated effective date of April 13, 2013 with the stated reason for cause as "Tenant is repeated late paying rent."

The Tenant has acknowledged that rent has been paid late repeatedly due to ongoing personal issues and as a result of another dispute with her previous Landlord.

### Analysis

I accept the undisputed testimony of both parties and find that the Landlord served the Tenant with both the 10 day notice to end tenancy issued for unpaid rent and the 1 month notice to end tenancy issued for cause by Canada Post Registered Mail on March 4, 2013.

The Tenants stated that the rent was not paid within the allowed time frame nor did they apply for dispute resolution to dispute the notice. On this basis, I find that the Tenants are presumed to have accepted that the Tenancy was at an end. The Landlord has established a claim for an order of possession. The Landlord is granted an order of possession. This order must be served upon 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.

As for the monetary order, I find on a balance of probabilities based upon the combined evidence of both parties that the Landlord has established a claim for unpaid rent. I find that the Tenants accepted the Landlord's claims that rent paid was applied to the pet damage deposit and for paint charges. Although no written agreement exists, I find that it is clear that the Tenants in their email correspondence accepted the Landlord's spreadsheet accounting of charges and how the rent paid would be applied. The Tenants did not file for dispute over the matter. The Landlords have established a monetary claim for \$2,775.00 in unpaid rent. The Landlords are also entitled to recovery of the \$50.00 filing fee. The Landlords are granted a monetary order for \$2,825.00. 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 \$2,825.00.

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: April 19, 2013

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Residential Tenancy Branch

