



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Vancouver Eviction Services  
and [tenant name suppressed to protect privacy]

## **DECISION**

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

### **Introduction**

This is the Landlord's 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 Tenants.

The Landlord's agent ("SA") gave affirmed testimony at the Hearing.

SA testified that the Notice of Hearing documents and copies of the Landlord's documentary evidence were mailed to each of the Tenants, via registered mail, to the rental unit on March 30, 2013. The Landlord provided copies of the registered mail receipts and tracking numbers in evidence.

Based on the SA's affirmed testimony and the documentary evidence provided by the Landlord, I am satisfied that both of the Tenants were 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 Tenants did not sign into the teleconference and the Hearing proceeded in their absence.

### **Preliminary Matter**

SA withdrew the Landlord's application for an Order of Possession based on the One Month Notice to End Tenancy for Cause and proceeded with the Landlord's application for an Order of Possession based on the 10 day Notice to End Tenancy for Unpaid Rent.

### **Issues to be Decided**

- Is the Landlord entitled to an Order of Possession?
- Is the Landlord entitled to a Monetary Order for loss of revenue for the months of March and April, 2013?

### **Background and Evidence**

SA gave the following testimony:

A copy of the tenancy agreement was provided in evidence. Monthly rent is \$840.00, due the first day of each month. The Tenants paid a security deposit in the amount of \$420.00 on July 25, 2012.

The Tenants did not pay all of their rent when it was due on February 1, 2012, leaving a balance owing of \$560.00 for the month of February, 2012. On February 20, 2013, at 7:11 a.m., the Landlord served the Tenants with a 10 Day Notice to End Tenancy for Unpaid Rent, by handing the document to the male Tenant at the rental unit.

SA testified that the Tenants did not pay rent when it was due on March 1, 2012. She stated that on March 3, 2013, the Tenants the Landlord accepted payment in the amount of \$560.00 "for use and occupancy only". SA stated that the Tenants understood that the tenancy was not being reinstated. The Landlord provided a copy of the receipt marked "use and occupancy only" in evidence.

SA requested a monetary award, calculated as follows:

Unpaid rent for March, 2013	\$840.00
Loss of revenue for April, 2013	<u>\$840.00</u>
TOTAL	\$1,680.00

### **Analysis**

I accept SA's undisputed testimony in its entirety. The Tenants did not pay all of the arrears, or file for dispute resolution, within 5 days of receiving 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 March 2, 2013. I find that the Landlord is entitled to an Order of Possession and a monetary award in the amount of **\$1,680.00**.

Pursuant to Section 72(2)(b) of the Act, the Landlord may apply the security deposit towards partial satisfaction of his monetary award. No interest has accrued on the security deposit.

The Landlord has been successful in his application and I find that he is entitled to recover the cost of the **\$50.00** filing fee from the Tenant.

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

Loss of revenue	\$1,680.00
Recovery of the filing fee	<u>\$50.00</u>
Subtotal	\$1,730.00
Less security deposit	<u>- \$420.00</u>
<b>TOTAL AMOUNT DUE TO THE LANDLORD AFTER SET-OFF</b>	<b>\$1,310.00</b>

### **Conclusion**

I hereby provide the Landlord 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 Landlord with a Monetary Order in the amount of **\$1,310.00** 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: April 25, 2013

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Residential Tenancy Branch

