



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPB, MNR, FF, O

### Introduction

This matter dealt with an application by the Landlord for an Order of Possession, a Monetary Order for unpaid rent, to recover the filing fee and for other considerations.

The Landlord said she served the Tenants with the Application and Notice of Hearing (the “hearing package”) by personal delivery on April 9, 2013. Based on the evidence of the Landlord, I find that the Tenants were served with the Landlord’s hearing package as required by s. 89 of the Act and the hearing proceeded in the Tenants’ absence.

### Issues(s) to be Decided

1. Does the Landlord have grounds to end the tenancy?
2. Are there rent arrears and if so, how much?
3. Is the Landlord entitled to compensation for unpaid rent and if so how much?
4. What other considerations are there?

### Background and Evidence

This tenancy started on April 1, 2013 as a 1 month fixed term tenancy with an expiry date of April 30, 2013. Rent is \$550.00 per month payable on the last day of the month. The Tenants paid a security deposit of \$275.00.

The Landlord said that the Tenant entered into a 1 month fixed term tenancy with her, which is to end April 30, 2013. As well the Landlord said the tenancy agreement states the Tenants are to move out on April 30, 2013 and the Tenants initialed the tenancy agreement that they agreed to this. The Landlord said the Tenant did not move out on April 30, 2013, but on May 1, 2013. The Landlord is requesting monetary compensation for the Tenants staying until May 1, 2013.

As well the Landlord said she is concerned that the Tenants may come back to the unit so she requested an Order of Possession even though the Landlord has possession of the unit at the present time.

The Landlord continued to say that the Tenants left the unit in a poor condition and she would like to retain the Tenants' security deposit as compensation for the cost to clean the unit, but she did not apply for this in this application. The Landlord said she understands that she can reapply for these additional claims in a new application.

The Landlord also requested to recover the \$50.00 filing fee for this application.

### Analysis

The tenancy agreement plainly states the tenancy ended on April 30, 2013 and the Tenants agreed that they would move out by the end of the tenancy on or before April 30, 2013. Consequently the Landlord has established grounds to be awarded an Order of Possession to support the Landlord's position that the tenancy has end on April 30, 2013 and that the Landlord has the right of possession of the unit.

Further I find the Tenants overheld the tenancy by 1 day and pursuant to Section 57 (3) of the Act the Landlord is entitled to rent for the period the Tenants overheld in the unit. The Tenants overheld for 1 day and as rent is \$550.00 per month, one day's rent would be \$550.00 divided by 31 days in May which equals \$17.74.

As the Landlord has been successful in this matter, she is also entitled to recover from the Tenant the \$50.00 filing fee for this proceeding. The Landlord will receive a monetary order for the balance owing as following:

Overholding Rent arrears:	\$ 17.74	
Recover filing fee	\$ 50.00	
Subtotal:		\$ 67.74
Balance Owing		\$ 67.74

Conclusion

An Order of Possession effective 2 days after service of it on the Tenants and a Monetary Order in the amount of \$67.74 have been issued to the Landlord. A copy of the Orders must be served on the Tenants: the Order of Possession may be enforced in the Supreme Court of British Columbia and the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia.

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: May 06, 2013

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Residential Tenancy Branch

