



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes:**

OPR; MNR; MNDC, FF

### **Introduction**

This is the Landlord's application for an Order of Possession; a Monetary Order for unpaid rent and loss of revenue; and to recover the cost of the filing fee from the Tenants.

The Landlord gave affirmed testimony at the Hearing.

The Landlord testified that the Notice of Hearing documents and copies of her documentary evidence were hand delivered to the Tenants, at the rental unit, on April 11, 2013.

Based on the Landlord's affirmed testimony, I am satisfied that the Tenants were duly served with the Notice of Hearing documents and documentary evidence. Despite being served, the Tenants did not sign into the teleconference and the Hearing proceeded in their absence.

### **Preliminary Matter**

The Landlord stated that she had just been discharged from hospital when she filed her Application and had inadvertently switched her address and the Tenants' address on the Application form. The Landlord had provided the correct address for the rental unit (dispute address) and the tenancy agreement and Notice to End Tenancy were both completed with the correct addresses for the Landlord and the Tenants. The Landlord served the Tenants at the rental unit. Therefore, I amended the Landlord's Application to reflect the correct addresses for the Landlord and the Tenants.

### **Issues to be Decided**

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

### **Background and Evidence**

The Landlord gave the following testimony and evidence:

This tenancy began on February 1, 2012. Monthly rent is \$875.00, due the first day of each month. The Tenants paid a security deposit in the amount of \$437.50 at the beginning of the tenancy.

On April 2, 2012, the Landlord served the Tenants with a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice"), by hand delivering the Notice to the Tenants at the rental unit.

The Landlord testified that the Tenants have not paid any of the rent for the month of April, 2013. She stated that she went to the rental unit on May 7, 2013, but the Tenants were not home. She testified that there were clothes strewn all over the floor of the rental unit. The Landlord believes that the Tenants may have abandoned the rental unit, but is not sure and therefore requested an Order of Possession. The Landlord also seeks loss of revenue for the month of May, 2013.

The Landlord asked to set off the security deposit against her monetary award.

### **Analysis**

I accept the Landlord's undisputed testimony that she served the Tenants with the Notice to End Tenancy on April 2, 2013. The Tenants did not pay any of the arrears, or file for dispute resolution, within 5 days of receiving the documents. Therefore, pursuant to Section 46(5) of the Act, the Tenants are conclusively presumed to have accepted that the tenancy ended on April 12, 2013. I find that the Tenants are overholding and that the Landlord is entitled to an Order of Possession.

Based on the Landlord's undisputed testimony, I find that the Landlord has established a monetary award for unpaid rent and loss of revenue in the total amount of \$1,750.00.

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

The Landlord has been successful in her application and I find that she is entitled to recover the cost of the \$50.00 filing fee from the Tenants.

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

Unpaid rent and loss of revenue	\$1,750.00
Recovery of the filing fee	<u>\$50.00</u>
Subtotal	\$1,800.00
Less security deposit	<u>- \$437.50</u>
<b>TOTAL AMOUNT DUE TO THE LANDLORD AFTER SET-OFF</b>	<b>\$1,362.50</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 must be served on the Tenants in accordance with the provisions of Section 88 of the Act, and 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 **\$1,362.50** 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: May 09, 2013

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Residential Tenancy Branch

