



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Dispute Codes:

**OPR, MNR, MNSD, FF**

### Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has requested an Order of Possession for Unpaid Rent, a monetary Order for unpaid rent, to retain the security deposit, and to recover the filing fee from the tenants for the cost of this Application for Dispute Resolution.

The landlord provided affirmed testimony that on March 20, 2013 copies of the Application for Dispute Resolution and Notice of Hearing were sent to each tenant via registered mail at the address noted on the Application. A Canada Post tracking number, receipt and the registered mail envelopes were provided as evidence of service. The landlord obtained the service address from someone who thought they knew where the tenants had moved in February 2013.

As the Act requires registered mail to be sent to the address where a tenant resides, and, in the absence of evidence that convinces me the landlord knows the tenants reside at the address used, I find that service by registered mail cannot be proven. The registered mail was returned as unclaimed; but there was no evidence before me indicating that the tenants actually lived at the service address.

The landlord provided a copy of an April 30, 2013 affidavit of service that was sworn before a Commission for taking oaths, indicating that the female tenant was personally served with the Notice of hearing documents at the address the landlord had used for registered mail service. Service to the female tenant occurred at 4:31 p.m., by personal delivery to the female tenant.

Therefore, as the female tenant was given the hearing documents, I find that she has been served with Notice of the hearing.

In the absence of proof of service, the application has been amended to remove the male tenant as a respondent.

Neither tenant attended the hearing.

### Preliminary Matter

The tenants have vacated the unit; an Order of possession is not required.

### Issue(s) to be Decided

Is the landlord entitled to a monetary Order for unpaid rent?

May the landlord retain the deposit paid by the tenants?

Is the landlord entitled to filing fee costs?

### Background and Evidence

The tenancy commenced on June 15, 2011; rent was \$580.00 per month, due on the 1<sup>st</sup> day of each month. A deposit in the sum of \$290.00 was paid.

The tenants were given a January 6, 2013 10 Day Notice to End Tenancy for Unpaid Rent and vacated the unit in mid-February 2013.

The landlord has claimed compensation for unpaid rent as follows:

- November 2012 - \$220.00;
- December 2011 - \$580.00
- January 2013 - \$580.00; and
- February 2013 - \$580.00.

The landlord has applied to retain the deposit in partial satisfaction of the claim.

Copies of the tenancy agreement, the January 6, 2012 10 Day Notice to End Tenancy for Unpaid Rent, a February 4, 2013 letter to the tenants in relation to unpaid rent, notes written by the tenants agreeing to pay arrears and tenant payment ledgers were supplied as evidence.

### Analysis

From the evidence before me I find that the tenants vacated the unit sometime in mid-February 2013, as the result of a 10 Day Notice for Unpaid Rent that was issued in January 2013.

In the absence of the female tenant, who was served with Notice of this hearing, I find that the tenant has failed to pay rent and that from November 2012 to February 2013 a

total of \$1,960.00 is owed to the landlord. Therefore, I find that the landlord is entitled to compensation for unpaid rent in the sum of \$1,960.00.

Pursuant to section 72 of the Act, I find that the landlord is entitled to retain the security deposit in the sum of \$290.00.

As the application has merit I find that the landlord is entitled to the \$50.00 filing fee cost.

Based on these determinations I grant the landlord a monetary Order in the sum of \$1,720.00. In the event that the tenant does not comply with this Order, it may be served on the tenant, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

### Conclusion

The landlord is entitled to a monetary Order.

The landlord is entitled to retain the security deposit.

The landlord is entitled to filing fee costs.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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 16, 2013

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Residential Tenancy Branch

