



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, FF

### Introduction

This hearing dealt with the landlord's application for dispute resolution under the Residential Tenancy Act (the "Act") for an order of possession for the rental unit due to unpaid rent, a monetary order for unpaid rent and to recover the filing fee.

The landlord's agents appeared; the tenants did not appear.

The landlord gave evidence that they served each tenant with their Application for Dispute Resolution and Notice of Hearing by registered mail on May 17, 2013. The landlord supplied the registered mail receipts showing the tracking numbers of the registered mail envelopes.

I find the tenants were served notice of this hearing in a manner complying with section 89 of the Residential Tenancy Act (the "Act") and the hearing proceeded in the tenants' absence.

The landlord was provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

### Issue(s) to be Decided

Is the landlord entitled to an order of possession for the rental unit due to unpaid rent, a monetary order and to recover the filing fee?

## Background and Evidence

The landlord supplied evidence that this tenancy began on March 1, 2006, monthly rent is currently \$803, and the landlord has collected a security deposit of \$328.29 and a pet damage deposit of \$340 from the tenants.

The landlord gave evidence that on May 6, 2013, the tenants were served with a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice"), by posting it on the tenants' door, listing unpaid rent of \$803.50 as of May 1, 2013. The effective vacancy date listed on the Notice was May 13, 2013.

Section 90 of the Act states that documents served by posting on the door are deemed delivered three days later. Thus the tenants were deemed to have received the Notice on May 9, 2013, and the effective move out date is automatically changed to May 19, 2013, pursuant to section 53 of the Act.

The Notice informed the tenant that the Notice would be cancelled if the rent was paid within five days. The Notice also explained that alternatively the tenant had five days to dispute the Notice by making an application for dispute resolution. In other words, the tenants had until May 14, 2013, to make the full payment of rent or dispute the Notice.

The landlord stated that the tenant did make a payment of rent of \$803 on May 17, 2013, and was issued a receipt showing that the rent was for "Use and Occupancy Only" and further stated that the tenancy was not reinstated.

The landlord said that further the tenants have paid rent for June, on June 3, in the amount of \$803, again with a receipt being issued showing that the rent was for use and occupation.

I have no evidence before me that the tenants applied to dispute the Notice.

## Analysis

Based on the oral and written evidence and on a balance of probabilities, I find as follows:

I find the tenants were served a 10 Day Notice to End Tenancy for Unpaid Rent, did not pay the outstanding rent or file an application for dispute resolution in dispute of the Notice within five days of service and are therefore conclusively presumed under

section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

I therefore find that the landlord is entitled to an order of possession for the rental unit effective two days after service of the order upon the tenants.

I also find that the landlord has established a total monetary claim of \$50.50 comprised of the balance of the outstanding rent of \$.50 listed on the Notice and the \$50 filing fee paid by the landlord for this application.

### Conclusion

I grant the landlord a final, legally binding order of possession for the rental unit, which is enclosed with the landlord's Decision. Should the tenants fail to vacate the rental unit pursuant to the terms of the order after being served the order, it may be filed in the Supreme Court of British Columbia for enforcement as an order of that Court. The tenants are advised that costs such as bailiff fees of such enforcement are recoverable from the tenants.

I grant the landlord a final, legally binding monetary order pursuant to section 67 of the Act for the amount of \$50.50, which I have enclosed with the landlord's Decision.

Should the tenants fail to pay the landlord this amount without delay after being served the order, the order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an order of that Court. The tenants are advised that costs of such enforcement are recoverable from the tenants.

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* and is being mailed to both the applicant and the respondent.

Dated: June 12, 2013

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Residential Tenancy Branch