



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Vancouver Management Ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      FF, MNR, OPR

### Introduction

This is an application for an Order of Possession based on a Notice to End Tenancy for nonpayment of rent, and a request for a Monetary Order.

A substantial amount of documentary evidence, photo evidence, and written arguments has been submitted prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the applicant the opportunity to testify at the hearing.

The applicant(s) testified that the respondent(s) were served with notice of the hearing by registered mail that was mailed on August 22, 2013; however the respondent(s) did not join the conference call that was set up for the hearing.

Documents sent by registered mail are deemed served five days after service and therefore it's my finding that the respondents have been properly served with notice of today's hearing.

All testimony was taken under affirmation.

### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to a Monetary Order?

### Background and Evidence

The applicant testified that:

- The tenant's cheque that was given for the security deposit was returned NSF and therefore they serve the tenants with a 10 day Notice to End Tenancy for nonpayment of rent.
- The tenants failed to comply with that notice, and a failed to pay rent for the months of August 2013 and September 2013.
- They are therefore requesting an Order of Possession for as soon as possible and a Monetary Order as follows:

NSF bank charge	\$42.50
August 2013 rent outstanding	\$925.00
September 2013 rent outstanding	\$925.00
Filing fee	\$50.00
Total	\$1942.50

### Analysis

It's my finding that the landlords have not served a valid Notice to End Tenancy on the tenant's. A 10 day Notice to End Tenancy is for nonpayment of rent or utilities only, and cannot be given for nonpayment of a security deposit.

If the tenant fails to pay a security deposit, the landlord can give a one month Notice to End Tenancy, but not a 10 day Notice to End Tenancy.

I therefore will not issue an Order of Possession based on the Notice to End Tenancy that was given.

I will however allow the landlords request for the NSF charges, and for the outstanding rent as it is my finding that the landlord has shown that the tenants have failed to pay any rent for the months of August 2013 and September 2013, and that the landlord suffered bank charges as a result of the tenants security deposit cheque not being honored.

I also allow the request for recovery of the \$50.00 filing fee.

### Conclusion

The application for an Order of Possession is dismissed.

I have issued a Monetary Order in the amount of \$1942.00.

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: September 30, 2013

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Residential Tenancy Branch