



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Metro Vancouver Housing Corporation  
and [tenant name suppressed to protect privacy]

## **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; compensation for damage or loss under the Act, regulation or tenancy agreement; and to recover the cost of the filing fee from the Tenants.

The parties gave affirmed testimony at the Hearing.

The Landlord's agent JM testified that she mailed the Notice of Hearing documents and copies of the Landlord's documentary evidence to each of the Tenants, by registered mail, on July 26, 2013. The Landlord provided copies of the registered mail receipts and tracking numbers in evidence.

The Tenants did not provide any documentary evidence to the Residential Tenancy Branch or to the Landlord.

### **Issues to be Decided**

- Is the Landlord entitled to rent arrears, unpaid rent for the month July, 2013 and compensation for loss of revenue for August and September 2013?

### **Background and Evidence**

This tenancy began on August 15, 2008. The rental unit property is subsidized housing. Current monthly rent is \$974.00, due on the first day of each month. The Tenants paid a security deposit in the amount of \$592.50 at the beginning of the tenancy.

JM testified that the Tenants are chronically late paying their rent and that they fell into arrears of rent in April, 2012. She testified that the Tenants got further and further into arrears over the next several months, and therefore they were put on a re-payment plan, in which they paid an additional \$20.00 per month until the arrears were paid. The

Landlord provided copies of letters written to the Tenants and a Tenant Ledger in evidence.

JM testified that the Tenants did not pay any rent for July, 2013. The Landlord issued a Notice to End Tenancy for Unpaid Rent on July 5, 2013, a copy of which was provided in evidence. JM testified that the Notice was posted to the Tenants' door on July 5, 2013.

JM testified that the Tenants have not paid any rent for August or September, 2013.

The Landlord seeks a monetary award, calculated as follows:

Arrears (per Tenant Ledger)	\$831.50
Unpaid rent for July, 2013 and NSF fees	\$999.00
Loss of revenue for August and September (\$974.00 x 2)	<u>\$1,948.00</u>
TOTAL	\$3,778.50

The male Tenant CP gave the following testimony:

CP agreed that rent has not been paid for July, August or September, 2013. He stated that the Landlord did not deposit August's rent cheque on time, so it bounced. CP stated that he refused to pay any more rent until necessary repairs are made.

The Tenants have not filed an application to cancel the Notice to End Tenancy or to seek repair orders.

### **Analysis**

I accept that the Landlord posted the Notice to End Tenancy on the Tenant's door on July 5, 2013. Service in this manner is deemed to be effective 3 days after posting the document, July 8, 2013. The Tenants did not pay 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 July 18, 2013.

I explained to the Tenants that in any event Section 26 of the Act requires tenants to pay rent when it is due, whether or not the Landlord complies with the Act, regulations or tenancy agreement, unless the tenants have a right under this Act to deduct all or a portion of the rent. In this case, the Tenants had no such right.

I advised the parties that the Landlord is entitled to an Order of Possession effective two days after service of the Order upon the Tenants.

It is important to note that JM stated that if the Tenants paid the arrears, July rent and compensation for loss of revenue for August and September, 2013, the Landlord would allow the Tenants to occupy the rental unit until September 30, 2013. Such payment would not reinstate the tenancy. Therefore, I hereby provide the Landlord an Order of Possession effective 2 days after service of the Order upon the Tenants, which the Landlord has agreed not to enforce until September 30, 2013, if the Monetary Order is paid right away.

Pursuant to Section 72(2)(b) of the Act, the Landlord may apply the security deposit towards partial satisfaction of its monetary claim. Interest in the amount of \$3.38 has accrued on the security deposit.

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

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

Unpaid rent and loss of revenue	\$3,778.50
Recovery of the filing fee	<u>\$50.00</u>
Subtotal	\$3,828.50
Less security deposit and accrued interest	<u>- \$605.88</u>
<b>TOTAL AMOUNT DUE TO THE LANDLORD AFTER SET-OFF</b>	<b>\$3,422.62</b>

### **Conclusion**

I hereby provide the Landlord with an Order of Possession effective **2 days after service of the Order**. This Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court. The Landlord has agreed not to enforce this Order until September 30, 2013, if the Tenants pay the Landlord's monetary award immediately.

I hereby provide the Landlord with a Monetary Order in the amount of **\$3,422.62** 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: September 06, 2013

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Residential Tenancy Branch

