



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNR, DRI, FF, MNR, MNSD, FF, OPR, MNDC

### Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim. The tenants have also filed an application seeking an order to have the Ten Day Notice for Unpaid Rent or Utilities set aside, to dispute a rent increase and recover the filing fee. The landlord participated in the conference call hearing but the tenant(s) did not. The tenants initiated the process for a dispute resolution hearing and I am satisfied that the tenants had been properly served with notice of the landlord's claim and the date and time of the hearing and the hearing proceeded in their absence. The landlord gave affirmed evidence.

### Issues to be Decided

Is either party entitled to any of the above under the Act, regulation or the tenancy agreement?

### Background and Evidence

The tenancy began on or about March 1, 2009. Rent in the amount of \$1500.00 is payable in advance on the first day of each month however that was reduced one year into the tenancy to \$1200.00. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$750.00. The landlord advised that the tenant has been making partial payments for the past two years. The landlord stated that he trusted the tenants to "make good" on their promise to pay him. As of today's hearing the amount of unpaid rent is \$10,277.65

### Analysis

I accept the landlord's undisputed testimony and I find that the tenant was served with a notice to end tenancy for non-payment of rent. The tenant did not pay the outstanding

rent within 5 days of receiving the notice and did not apply for dispute resolution to dispute the notice and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice. Based on the above facts I find that the landlord is entitled to an order of possession. The tenant must be served with the order of possession. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

As for the monetary order, I find that the landlord has established a claim for \$10277.65 in unpaid rent. The landlord is also entitled to recovery of the \$100.00 filing fee. I order that the landlord retain the \$750.00 deposit in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$9627.65. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

The tenants chose not to dial into the conference. The tenants submitted some documentary evidence however it was not helpful. Based on the insufficient evidence before me I dismiss the tenant's application in its entirety without leave to reapply.

### Conclusion

The landlord is granted an order of possession and a monetary order for \$9627.65. The landlord may retain the security deposit.

The tenants application is dismissed in its entirety without leave to reapply.

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: October 22, 2013

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Residential Tenancy Branch

