



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding COLLIERS INTERNATIONAL  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPB, MNR, FF

### Introduction

This matter dealt with an application by the Landlord for an Order of Possession and a Monetary Order for unpaid rent and to recover the filing fee for this proceeding.

The Landlord said he served the Tenants with the Application and Notice of Hearing (the “hearing package”) by registered mail on September 23, 2013. Based on the evidence of the Landlord, I find that the Tenants were served with the Landlord’s hearing package as required by s. 89 of the Act and the hearing proceeded in the Tenants’ absence.

### Issues(s) to be Decided

1. Does the Landlord have grounds to end the tenancy?
2. Are there rent arrears and if so, how much?
3. Is the Landlord entitled to compensation for unpaid rent and if so how much?

### Background and Evidence

This tenancy started on November 1, 2011 as a 1 year fixed term tenancy with an expiry date of October 30, 2012 and the tenancy then continued on a month to month basis. Rent is \$830.00 per month payable in advance of the 1<sup>st</sup> day of each month. The Tenant paid a security deposit of \$400.00 on September 30, 2011.

The Landlord said there was a previous Hearing, in which the Landlord received an Order of Possession and monetary compensation for unpaid rent for July and August, 2013. The Landlord continued to say the Tenants appealed the decision and Orders (which was dismissed) and as a result the Tenants continued to live in the rental unit until October 16, 2013, when the Landlord hired a Bailiff to remove the Tenants.

Further the Landlord said that the Tenants did not pay \$830.00 of rent for September, 2013, when it was due and as a result, on September 4, 2013 he posted a 10 day Notice to End Tenancy for Unpaid Rent or Utilities dated September 4, 2013 on the door

of the Tenants' rental unit. The Landlord said the Tenants have unpaid rent for October, 2013 in the amount of \$830.00 as well.

The Landlord said he has possession of the rental unit now so he is withdrawing his request for an Order of Possession in this application.

The Landlord also sought to recover a \$25.00 late payment fee that is written into the Tenancy agreement for each month of September and October, 2013 and the Landlord requested to recover the \$50.00 filing fee for this proceeding.

### Analysis

Section 26 says a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

The Tenants did not have the right under the Act to withhold part or all of the rent for September and October, 2013, therefore I find in favour of the Landlord for the unpaid rent of \$1,660.00 for the 2 months of September and October, 2013.

Further I find that the Landlord is entitled to recover the late charge of \$25.00 for September and October, 2013 in the total amount for the two months of \$50.00.

As the Landlord has been successful in this matter, he is also entitled to recover from the Tenants the \$50.00 filing fee for this proceeding. The Landlord will receive a monetary order for the balance owing as following:

Rent arrears:	\$1,660.00	
Late payment fees(2)	\$ 50.00	
Recover filing fee	\$ 50.00	
Subtotal:		\$1,760.00
 Balance Owing		 \$1,760.00

Conclusion

A Monetary Order in the amount of \$1,760.00 has been issued to the Landlord. A copy of the Order must be served on the Tenants: the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia.

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 30, 2013

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Residential Tenancy Branch