



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding CAPREIT LP  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MNR, MNSD, FF

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67;
- authorization to retain all or a portion of the tenants' security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenants pursuant to section 72.

The tenants did not attend this hearing, although I waited until 11:14 a.m. in order to enable them to connect with this teleconference hearing scheduled for 11:00 a.m. The landlord attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions. The landlord testified that he posted the 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) on the tenants' door at 3:30 p.m. on August 2, 2013. He submitted a witnessed Proof of Service document regarding his service of the 10 Day Notice in this way. The landlord testified that he sent both tenants copies of the landlord's dispute resolution hearing packages by registered mail on August 30, 2013. The landlord provided copies of the Canada Post Tracking Number to confirm these registered mailings. I am satisfied that the landlord served the above documents and the landlord's written evidence to the tenants in accordance with the *Act*.

At the commencement of the hearing, the landlord advised that the tenants have made two payments on August 15, 2013 in the amounts of \$128.00 and \$379.00, both accepted by the landlord for use and occupancy only. On this basis, I amended the landlord's application for a monetary award to \$1,978.00, the amount the landlord claimed was currently owed by the tenants.

Issues(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent? Is the landlord entitled to a monetary award for unpaid rent? Is the landlord entitled to retain all or a portion of the tenants' security deposit in partial satisfaction of the monetary award requested? Is the landlord entitled to recover the filing fee for this application from the tenants?

Background and Evidence

This one-year fixed term tenancy began on April 15, 2013. Monthly rent is set at \$830.00 plus \$25.00 for parking, to be paid in advance on the first of each month. The landlord continues to hold the tenants' \$415.00 security deposit paid on April 12, 2013.

The landlord's revised application for a monetary award of \$1,978.00 included the following items:

<b>Item</b>	<b>Amount</b>
Unpaid Portion of August 2013 Rent	\$268.00
Unpaid September Rent (\$830.00 + \$25.00 = \$855.00)	855.00
Unpaid October Rent (\$830.00 + \$25.00 = \$855.00)	855.00
<b>Total Monetary Order</b>	<b>\$1,978.00</b>

Analysis

The tenants failed to pay the \$875.00 identified as owing in the 10 Day Notice in full within five days of being deemed to have received the 10 Day Notice on August 5, 2013. The tenants have not made application pursuant to section 46(4) of the *Act* within five days of receiving the 10 Day Notice. In accordance with section 46(5) of the *Act*, the tenants' failure to take either of these actions within five days led to the end of their tenancy on the effective date of the notice. In this case, this required the tenants to vacate the premises by August 15, 2013. I find that the tenants' payments on August 15, 2013, accepted for use and occupancy only did not reinstate their tenancy. As the tenants have not vacated the rental unit as required by August 15, 2013, I find that the landlord is entitled to a 2 day Order of Possession. The landlord will be given a formal Order of Possession which must be served on the tenant(s). If the tenants do not vacate the rental unit within the 2 days required, the landlord may enforce this Order in the Supreme Court of British Columbia.

Based on the undisputed evidence provided by the landlord, I find that the landlord is entitled to a monetary award of \$268.00 for August 2013, \$855.00 for September 2013, and \$855.00 for October 2013.

I allow the landlord to retain the tenants' security deposit plus applicable interest in partial satisfaction of the monetary award issued in this decision. No interest is payable over this period. I allow the landlord to recover the \$50.00 filing fee from the tenants.

### Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant(s). Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I issue a monetary Order in the landlord's favour under the following terms, which allows the landlord to recover unpaid rent and the filing fee and to retain the tenants' security deposit:

Item	Amount
Unpaid Portion of August 2013 Rent	\$268.00
Unpaid September Rent (\$830.00 + \$25.00 = \$855.00)	855.00
Unpaid October Rent (\$830.00 + \$25.00 = \$855.00)	855.00
Less Security Deposit	-415.00
Filing Fee	50.00
<b>Total Monetary Order</b>	<b>\$1,613.00</b>

The landlord is provided with these Orders in the above terms and the tenant(s) must be served with this Order as soon as possible. Should the tenant(s) fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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: October 07, 2013

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Residential Tenancy Branch

