



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Bon Terra Holdings 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, a request for a Monetary Order for \$2150.00, and a request for an Order for recovery of the \$50.00 filing fee.

Some documentary evidence and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

### Issue(s) to be Decided

Are the landlords entitled to an Order of Possession?

Are the landlords entitled to a Monetary Order?

### Background and Evidence

The applicant testified that:

- This tenancy began on October 1, 2012 with a monthly rent of \$900.00.
- The tenants failed to pay \$300.00 of the August 2013 rent, and failed to pay any of the September 2013 or October 2013 rent.
- The tenants subsequently paid \$785.00 in October 2013, and a further \$925.00 in November 2013, however since the November 2013 rent was also due, that still leaves the balance the rent outstanding totaling \$1290.00

- All money that has been received since the Notice to End Tenancy was served has been accepted for use and occupancy only.
- The tenants were personally served with a one month Notice to End Tenancy on August 31, 2013 with an end of tenancy date of September 30, 2013.
- The tenants have failed to comply with that Notice to End Tenancy
- They are therefore requesting an Order of Possession for as soon as possible, and a Monetary Order for the outstanding rent of \$1290.00 plus the \$50.00 filing fee.

The respondents testified to that:

- They are not sure how much rent is outstanding at this time, and the landlord may be accurate, but they believed it at this point there was only about \$400.00 outstanding.
- They did receive a Notice to End Tenancy and have been looking for another place to move to however as yet no one will accept them as renters.

### Analysis

It is my finding that since the tenants have not filed a dispute of the Notice to End Tenancy they are deemed to have accepted the end of tenancy and therefore since any further payments were accepted for use and occupancy only, I allow the landlords request for an Order of Possession.

On the date of the landlords filed the application there was rent outstanding as follows:

August 2013 rent outstanding	\$300.00
September 2013 rent outstanding	\$900.00
October 2013 rent outstanding	\$900.00
Total	\$2100.00

However since we are now well into the month of November, the November 2013 rent of \$900.00 must also be added onto the amount of rent owed. Therefore the total adds up to \$3000.00.

The tenants have made two payments since receiving the Notice to End Tenancy as follows:

October 2013 payment	\$785.00
November 2013 payment	\$925.00
Total	\$1710.00

Therefore it is my finding that the total amount rent outstanding as of today's date is as follows:

Total amount of rent that was outstanding	\$3000.00
Minus payments made	\$1710.00
Total still outstanding	\$1290.00

I therefore also allow the landlords from reduced claim for the above outstanding rent, and for recovery of the \$50.00 filing fee.

### Conclusion

I have issued an Order of Possession that is enforceable two days after service on the tenant's.

I have issued a Monetary Order in the amount of \$1290.00.

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: November 18, 2013

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Residential Tenancy Branch

