



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Rimcher Investments Ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MNR, MNSD, FF

### Introduction

This hearing dealt with the landlord's application for dispute resolution under the Residential Tenancy Act (the "Act") for an order of possession for the rental unit due to unpaid rent, a monetary order for unpaid rent, for authority to retain the tenants' security deposit and to recover the filing fee.

The landlord's agent (hereafter "landlord") appeared; neither tenant appeared.

The landlord gave evidence that he served tenant KR with their application for dispute resolution and Notice of Hearing by leaving it with this tenant on October 8, 2013. Tenant BN was not served with the landlord's application for dispute resolution and Notice of Hearing.

I find tenant KR was served notice of this hearing in a manner complying with section 89 of the Residential Tenancy Act (the "Act") and the hearing proceeded in the tenant's absence. Tenant BN was excluded from any further consideration relating to these proceedings as he was not served notice of this hearing as required under section 89 of the Act.

The landlord was provided the opportunity to present his evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

*Preliminary matter*-The landlord testified that the tenants vacated the rental unit on October 12, 2013, and therefore he no longer required an order of possession for the

rental unit. The hearing proceeded only on the landlord's request for monetary compensation.

### Issue(s) to be Decided

Is the landlord entitled to a monetary order, for authority to retain the tenants' security deposit and to recover the filing fee?

### Background and Evidence

The landlord provided documentary evidence that this tenancy began on August 9, 2012, monthly rent is \$1500, and a security deposit of \$750 was paid by the tenants at the beginning of the tenancy.

The landlord gave evidence that on October 2, 2013, the tenants were served with a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice"), by leaving it with tenant KR, listing unpaid rent of \$3050 as of October 1, 2013. The effective vacancy date listed on the Notice was October 12, 2013.

The Notice informed the tenant that the Notice would be cancelled if the rent was paid within five days. The Notice also explained that alternatively the tenant had five days to dispute the Notice by making an application for dispute resolution.

The landlord stated that the tenants made no further payments of rent prior to vacating the rental unit, and as of the date of the hearing, the tenants owed \$3050 in unpaid rent through October 2013.

I have no evidence before me that the tenants applied to dispute the Notice.

### Analysis

Based on the oral and written evidence and on a balance of probabilities, I find as follows:

I find the tenants were served a 10 Day Notice to End Tenancy for Unpaid Rent, did not pay the outstanding rent or file an application for dispute resolution in dispute of the Notice within five days of service and are therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice, which was the case here.

I therefore find that the landlord is entitled to a monetary award of \$3100, comprised of outstanding rent of \$3050 through October, 2013, and the \$50 filing fee paid by the landlord for this application.

### Conclusion

The landlord's application is granted.

At the landlord's request, I allow the landlord to retain the tenants' security deposit of \$750 in partial satisfaction of their monetary award of \$3100.

I grant the landlord a final, legally binding monetary order pursuant to section 67 of the Act for the balance due against tenant KR, in the amount of \$2350, which I have enclosed with the landlord's Decision.

Should the tenant fail to pay the landlord this amount without delay after being served the order, the order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an order of that Court. The tenant is advised that costs of such enforcement are recoverable from the tenant.

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* and is being mailed to both the applicant and the respondent.

Dated: November 06, 2013

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Residential Tenancy Branch

