



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: MNDC, OPT

### Introduction

This hearing was scheduled in response to an application by the tenants for a monetary order as compensation for damage or loss under the Act, Regulation or tenancy agreement / and an order of possession of the rental unit. Tenant "CC" attended and gave affirmed testimony.

The tenant testified that the application for dispute resolution and notice of hearing (the "hearing package") were served on the landlord by way of registered mail. Evidence provided by the tenant includes the Canada Post tracking number for the registered mail, and the Canada Post website informs that the item was "successfully delivered." Despite this, the landlord did not appear.

### Issue(s) to be Decided

Whether the tenants are entitled to the above under the Act, Regulation or tenancy agreement.

### Background and Evidence

There is no written tenancy agreement in evidence for this tenancy which began on September 1, 2013. Monthly rent of \$950.00 is due and payable in advance on the first day of each month. The tenant testified that a security deposit of \$500.00, and a pet damage deposit of \$250.00 were collected.

Arising from an *ex parte* proceeding in response to an application by the landlord, a decision was issued by date of October 18, 2013 (file # 813232). Pursuant to the decision an order of possession and a monetary order reflecting compensation for unpaid rent for October 2013 were issued in favour of the landlord.

The tenant testified that she was served with the order of possession on October 29, 2013. Thereafter, the tenant applied for review on October 31, 2013, and by way of review consideration decision dated November 8, 2013, the tenant's application was

allowed. In the result, the decision and orders dated October 18, 2013 were suspended pending the outcome of the review hearing which is scheduled for January 8, 2014.

Further to all the above, the landlord issued another 10 day notice to end tenancy for unpaid rent. The tenant filed an application to dispute the notice and a separate hearing is scheduled for January 9, 2014 (file # 814767).

Subsequent to service of the order of possession, the tenant testified that the landlord attended the unit late at night on November 30, 2013 and instructed the tenants to vacate the unit. The tenant testified that the landlord changed the locks on the unit on that same occasion. Further, the tenant testified that she called police who, when they attended, encouraged the tenants to vacate the unit. Additionally, the tenant testified that the landlord later removed all of her possessions from the unit, and she claims that some of these are now missing.

After vacating the unit, the tenants booked temporary accommodation in a hotel for three (3) nights. Thereafter, they made arrangements to stay with a family member while they sought to find another rental unit. In the result, the tenants withdrew the aspect of the application in which they seek an order of possession for the subject unit.

The sole matter before me is the application for reimbursement of "hotel costs" arising from a three (3) night stay from November 30, 2013 in the total amount of \$288.55.

### Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, forms and more can be accessed via the website: [www.rto.gov.bc.ca](http://www.rto.gov.bc.ca)

Based on the documentary evidence and the affirmed / undisputed testimony of the tenant, I find that the order of possession and the monetary order issued in favour of the landlord and dated October 18, 2013, were suspended pursuant to the review consideration decision dated November 8, 2013. As previously noted, the review hearing scheduled as a result of the review consideration decision is scheduled to occur on January 8, 2014.

As the order of possession was suspended, I find that the landlord acted without proper authority when he removed the tenants from the unit on November 30, 2013, and acted without proper authority when he changed the locks to the unit on that same date. In the result, I find that the tenants have established entitlement to the full amount of

compensation sought which arises out of being required to book temporary accommodation.

Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the tenants in the amount of **\$288.55**. Should it be necessary, this order may be served on the landlord, filed in the Small Claims Court and enforced as an order 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: December 30, 2013

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Residential Tenancy Branch

