



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNDC, O

### Introduction

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

- an Order of Possession pursuant to section 55; and
- a monetary order for unpaid rent pursuant to section 67.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions and to discuss the circumstances of this tenancy with one another. The landlords' agent testified that she handed the tenant a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) on September 11, 2013, seeking an end to this tenancy on September 22, 2013. The landlords' agent testified that the tenant asked for more time to end this tenancy and signed a September 15, 2013 written notice to end this tenancy by October 31, 2013, a copy of which was entered into written evidence by the landlords. The tenant testified that the landlords' agent altered her September 15, 2013 document, as her intention was not to provide her agreement to end this tenancy on October 31, 2013.

The tenant confirmed that on October 31, 2013, she received a copy of the landlords' dispute resolution hearing package, hand delivered by the landlords' agent on that date. I am satisfied that the tenant was served with a copy of the landlords' dispute resolution hearing package on October 31, 2013.

### Issues(s) to be Decided

Are the landlords entitled to an Order of Possession for the tenant's failure to abide by the terms of the tenant's written notice to end this tenancy? Are the landlords entitled to a monetary award for unpaid rent?

### Background and Evidence

This periodic tenancy for a basement suite in the landlords' home commenced on June 1, 2013. Monthly rent is set at \$900.00, payable in advance on the first of each month. The landlords' agent testified that the tenant has only paid \$250.00 of the required \$450.00 security deposit in monthly \$50.00 installments. The tenant initially testified

that she had paid all of her \$450.00 security deposit. Later in the hearing, the tenant revised this sworn testimony to maintain that she had paid \$300.00 of security deposit to the landlords. The landlords' agent said that she had gone through the security deposit payment receipts that morning and was certain that the correct amount paid for the security deposit thus far was \$250.00.

The landlords applied for an Order of Possession as the tenant has not vacated the rental unit by 1:00 p.m. on October 31, 2013, as she had committed to do in her September 15, 2013 signed handwritten notice to end this tenancy. The landlords also applied for a monetary award of \$3,600.00. This amount included unpaid rent of \$900.00 for each of November and December 2013. It was also to reimburse the landlords for the \$1,800.00 in rent they paid for the new tenants who were supposed to have moved into this rental unit on November 1, 2013, as per the terms of the new tenancy agreement the landlords had entered into with them.

At the hearing, the landlords' agent reduced the amount of the requested monetary award by \$1,350.00. This reduction reflected the landlords' acceptance of a \$900.00 payment received on November 1, 2013, and accepted for use and occupancy only. This reduction also included a \$450.00 direct deposit by the tenant into the landlords' bank account, which occurred on either December 1, 2013, as claimed by the tenant, or December 5, 2013, as initially maintained by the landlord's agent. The landlords' agent gave undisputed sworn testimony that \$450.00 remains owing for this tenancy for December 2013.

### Analysis

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During the hearing, the parties discussed the issues between them, engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute. The tenant was assisted in this process by her legal advocate.

The landlords' agent confirmed that the landlords had given her full authorization to negotiate a settlement of this dispute with the tenant. I also note that the landlords entered into written evidence their written authorization to allow their agent to represent them at this hearing.

Both parties agreed to the following settlement of all issues arising out of the landlords' application and in dispute during this tenancy under the following final and binding terms:

1. Both parties agreed that this tenancy will end by 1:00 p.m. on January 31, 2014, by which time the tenant will have vacated the rental unit.
2. The landlords agreed to withdraw any 10 Day Notice to End Tenancy for Unpaid Rent issued by the landlords to the tenant.
3. The tenant withdrew her existing notice to end this tenancy and the landlords agreed to allow the tenant to withdraw any notice to end tenancy that the tenant has issued to the landlords.
4. The tenant agreed to pay \$450.00 to the landlords (or their agent) by 5:00 p.m. on December 13, 2013.
5. The tenant agreed to pay her January 2014 rent by 5:00 p.m. on January 2, 2014.
6. The landlords agreed that if the tenant abides by the monetary terms of this settlement agreement as outlined above that this monetary settlement constituted a final and binding resolution of all monetary issues currently under dispute regarding this tenancy.
7. The parties agreed that the standard requirements of their Residential Tenancy Agreement apply to the remainder of this tenancy and with respect to the return of the tenant's security deposit.
8. Both parties agreed that the current value of the security deposit will be determined between the parties at the end of this tenancy after they both retrieve their copies of receipts issued by the landlords and compare them with one another.
9. Both parties agreed that this settlement agreement constituted a final and binding resolution of all issues in dispute arising out of this tenancy at this time.

### Conclusion

To give effect to the settlement reached between the parties and as discussed at the hearing, I issue the attached Order of Possession to be used by the landlord if the tenant does not vacate the rental premises in accordance with their agreement. The landlord is provided with these Orders in the above terms and the tenant must be served with this Order in the event that the tenant does not vacate the premises by the time and date set out in their agreement. Should the tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

In order to implement the above settlement reached between the parties, I issue a monetary Order in the landlord's favour in the amount of \$450.00. I deliver this Order to the landlord in support of the above agreement for use **only** in the event that the tenant does not abide by the monetary terms of the above settlement. The landlord is provided with these Orders in the above terms and the tenant must be served with a copy of

these Orders as soon as possible after a failure to comply with the terms of the above settlement agreement. Should the tenant 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: December 12, 2013

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Residential Tenancy Branch

