



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding PROLINE MANAGEMENT LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

### Dispute Codes

For the tenants: CNR  
For the landlord: OPR MNR MNSD FF

### Introduction

This hearing was convened as a result of the cross applications of the parties for dispute resolution under the *Residential Tenancy Act* (the “Act”).

The tenants applied to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the “10 Day Notice”).

The landlord applied for an order of possession for unpaid rent or utilities, for authorization to keep all or part of the security deposit, for a monetary order for unpaid rent or utilities, and to recover the filing fee.

An agent for the landlord (the “agent”) and a property manager for the landlord attended the hearing. The tenants did not attend the hearing. The tenants were advised of the hearing date and time by way of the Notice of a Dispute Resolution Hearing dated October 23, 2013 when the tenants filed their application on October 23, 2013.

The agent confirmed that both tenants were served with the landlord’s application for dispute resolution by separate registered mail packages, both of which contained the landlord’s evidence. The agent provided two registered mail tracking numbers and confirmed that both of the registered mail packages were addressed to the tenants separately at the rental unit address and mailed on November 7, 2013.

The agent stated that when he checked the registered mail postal tracking website, the packages were marked as “unclaimed” and returned to the landlord on November 26, 2013. Pursuant to section 90 of the *Act*, I find the tenants were deemed served with the landlord’s application and evidence by registered mail as of November 12, 2013, which

is five days after the documents were mailed. I note that refusal or neglect on the part of the tenants to pick up their registered mail packages does not constitute grounds for a Review Consideration Application.

As the tenants did not attend the hearing, the tenants' application was **dismissed without leave to reapply** after the 10 minute waiting period had elapsed. The hearing continued with consideration of the landlord's application for an order of possession for unpaid rent, for a monetary order for unpaid rent, and the recovery of the filing fee.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issues to be Decided

- Is the landlord entitled to an order of possession for unpaid rent or utilities?
- Is the landlord entitled to a monetary order under the *Act*, and if so, in what amount?
- What should happen to the tenants' security deposit under the *Act*?

### Background and Evidence

The agent testified that a fixed term tenancy began on March 1, 2012, and reverted to a month to month tenancy after March 1, 2013. Monthly rent in the amount of \$1,500.00 was due on the first day of each month. A security deposit of \$750.00 was paid by the tenants at the start of the tenancy, which the landlord continues to hold.

The landlord submitted a copy of the 10 Day Notice in evidence. The 10 Day Notice is dated October 22, 2013. The agent testified that the tenants were served personally with the 10 Day Notice on October 22, 2013. The tenants disputed the 10 Day Notice on October 23, 2013, however, failed to attend the dispute resolution hearing scheduled for this date, and the tenants application was dismissed in full, without leave to reapply as a result. Once the tenants' application was dismissed, the landlord verbally requested an order of possession.

The 10 Day Notice indicates and effective vacancy date of November 1, 2013 and indicates that \$1,500.00 was owed by the tenants for unpaid rent as of October 1, 2013. The agent stated that the tenants have subsequently failed to pay \$1,500.00 for

November 2013 rent, and failed to pay \$1,500.00 for December 2013 and remain occupying the rental unit.

The landlord is seeking \$4,500.00 in unpaid rent plus the recovery of their filing fee. The landlord is also seeking authorization to retain the tenants full security deposit of \$750.00 towards the unpaid rent owing.

### Analysis

Based on the documentary evidence and the undisputed testimony of the agent provided during the hearing, and on the balance of probabilities, I find the following.

**I find** that the 10 Day Notice served on the tenants by the landlord dated October 22, 2013 is valid and I uphold the Notice. Pursuant to section 55 of the *Act*, once I dismissed the tenants' application, I must grant the landlord an order of possession based on the verbal request of the landlord. The effective vacancy date listed on the 10 Day Notice was November 1, 2013, which has passed and the tenants continue to occupy the rental unit. Therefore, **I grant** the landlord an order of possession effective **two (2) days** after service on the tenants. This order must be served on the tenants and may be enforced in the Supreme Court of British Columbia.

I accept the undisputed testimony of the agent that the tenants owe \$4,500.00 in unpaid rent comprised of \$1,500.00 owing for October 2013 rent, \$1,500.00 owing for November 2013 rent, and \$1,500.00 owing for December 2013 rent. Given the above, **I find** the landlord has established a monetary claim in the amount of **\$4,500.00** comprised of unpaid rent as claimed by the landlord.

**I find** the landlord's application did have merit. Therefore, **I grant** the landlord recovery of the filing fee in the amount of **\$50.00**. The tenants' security deposit of \$750.00 has accrued no interest since the start of the tenancy, which the landlord continues to hold.

**I find** that the landlord has established a total monetary claim of **\$4,550.00** comprised of \$4,500.00 in unpaid rent, plus and the \$50.00 filing fee. **I ORDER** the landlord to retain the tenants' full security deposit of \$750.00 in partial satisfaction of the landlord's monetary claim. **I grant** the landlord a monetary order pursuant to section 67 of the *Act*, for the balance owing by the tenants to the landlord in the amount of **\$3,800.00**. This order must be served on the tenants and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

## Conclusion

The tenants' application has been dismissed in full, without leave to reapply.

The landlord has been granted an order of possession effective **two (2) days** after service upon the tenants. This order must be served on the tenants and may be enforced in the Supreme Court of British Columbia.

The landlord has established a total monetary claim of \$4,550.00 comprised of \$4,500.00 in unpaid rent, plus and the \$50.00 filing fee. The landlord has been ordered to retain the tenants' full security deposit of \$750.00 in partial satisfaction of the landlord's monetary claim. The landlord has been granted a monetary order pursuant to section 67 of the *Act*, for the balance owing by the tenants to the landlord in the amount of \$3,800.00. This order must be served on the tenants and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and 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 4, 2013

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Residential Tenancy Branch

