



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Vancouver Eviction Services  
and [tenant name suppressed to protect privacy]

## **DECISION**

### Dispute codes

OP MNR MNSD FF

CNC, ERP, LRE, MNDC, MNR, O, OLC, PSF, RP, RR, SS, FF

### Introduction

This hearing dealt with applications by the landlord and by the tenants. The landlord applied for an order of possession, a monetary order and an order allowing retention of the security deposit in partial satisfaction of the claim. At the hearing the tenant advised me that she had not served her application on the landlord and did not want to proceed with the claim because the tenants intended to move out of the rental unit. The hearing was conducted by conference call. The landlord and the named tenant called in and participated in the hearing. The landlord's agent called in on behalf of the landlord.

Because the tenants do not intend to proceed with their application and have not served it upon the landlord, it is dismissed without leave to reapply

### Issues

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order?

Is the landlord entitled to an order allowing retention of the security deposit?

### Background and Evidence

This tenancy began on August 23, 2013 for a fixed term. The rent is \$2,300.00 due in advance on 23<sup>rd</sup> day of each month. The tenant paid a security deposit of \$1,150.00.00 at the start of the tenancy. The tenant did not pay rent for November when it was due. On November 6, 2013 the landlord's agent served the tenants with a Notice to End Tenancy for non-payment of rent by giving it to an adult occupant at the rental unit. The tenants have not paid rent for November or December and they did not file an application to dispute the Notice to End Tenancy within the time allowed.

### Analysis

Section 46 of the Act requires that upon receipt of a Notice to End Tenancy for non-payment of rent the tenants must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If, as in the present case, the tenants do neither of these two things, the tenants are conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice.

### Conclusion

*Order of Possession* - Based on the above background, evidence and analysis I find that the landlord is entitled to an order of possession effective two days after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

*Monetary Order and Security Deposit* - I find that the landlord has established a total monetary claim of \$4,600.00 for the outstanding rent for November and December. The landlord claimed loss of revenue for January, but according to the tenancy agreement the rent does not become due until January 23<sup>rd</sup>, 2014; therefore the claim for January rent is denied. The landlord is entitled to recover the \$50.00 filing fee for this application for a total award of \$4,650.00. I order that the landlord retain the deposit and interest of \$1,150.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$3,500.00. This order may be 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: January 08, 2014

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Residential Tenancy Branch

