



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding LLA 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 pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67;
- authorization to retain all or a portion of the tenants' security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenants pursuant to section 72.

The tenants did not attend this hearing, although I waited until 1:47 p.m. in order to enable them to connect with this teleconference hearing scheduled for 1:30 p.m. The landlord attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The landlord gave sworn oral testimony and written evidence in the form of a witnessed Proof of Service Document that he handed the female tenant the 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) on May 5, 2014. I find that the tenants were served with the landlord's 10 Day Notice and written evidence package as declared by the landlord. The landlord testified that on June 24 or 25, 2014, he sent both tenants copies of the landlord's dispute resolution hearing package by registered mail. The landlord entered into written evidence copies of the Canada Post Tracking Number and Customer Receipt to confirm these registered mailings. In accordance with sections 89 and 90 of the *Act*, I find that the tenants were deemed served with the landlord's dispute resolution hearing packages by June 30, 2014, the fifth day after their mailing.

### Issues(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent? Is the landlord entitled to a monetary award for unpaid rent? Is the landlord entitled to retain all or a portion of the tenants' security deposit in partial satisfaction of the monetary award requested? Is the landlord entitled to recover the filing fee for this application from the tenants?

### Background and Evidence

The landlord entered into written evidence a copy of the Residential Tenancy Agreement (the Agreement) between the parties signed by them on September 26, 2013. The Agreement covered a one-year fixed term of tenancy commencing on October 1, 2013. Monthly rent is set at \$750.00, payable in advance on the first of each month. The landlord continues to hold the tenants' \$375.00 security deposit paid on September 26, 2013.

The landlord's application for a monetary award of \$900.00 was for \$100.00 owing from May 2014, \$750.00 from June 2014, and the recovery of the landlord's \$50.00 filing fee. Although the landlord said that the tenants have not paid anything to the landlord since he issued the 10 Day Notice, the landlord did not apply for nor request the unpaid rent owing from July or August 2014.

### Analysis

The tenants failed to pay the amount identified as owing in the 10 Day Notice in full within five days of receiving that Notice. The tenants have not made application pursuant to section 46(4) of the *Act* within five days of receiving the 10 Day Notice. In accordance with section 46(5) of the *Act*, the tenants' failure to take either of these actions within five days led to the end of this tenancy on the effective date of the notice. In this case, this required the tenants to vacate the premises by May 15, 2014. As that has not occurred, I find that the landlord is entitled to a 2 day Order of Possession. The landlord will be given a formal Order of Possession which must be served on the tenant(s). If the tenants do not vacate the rental unit within the 2 days required, the landlord may enforce this Order in the Supreme Court of British Columbia.

### Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant(s). Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I issue a monetary Order in the landlord's favour under the following terms, which allows the landlord to recover unpaid rent and the filing fee from the tenant and to retain the tenants' security deposit:

Item	Amount
Unpaid Rent Owing as of May 31, 2014	\$100.00
Unpaid Rent June 2014	750.00
Less Security Deposit	-375.00
Recovery of Filing Fee for this Application	50.00
<b>Total Monetary Order</b>	<b>\$525.00</b>

The landlord is provided with these Orders in the above terms and the tenant(s) must be served with this Order as soon as possible. Should the tenant(s) 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: August 22, 2014

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Residential Tenancy Branch

