



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding AFFORDABLE HOUSING CHARITABLE ASSOCIATION  
and [tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes**      For the landlord: OPR, MNR, MNSD, FF  
For the tenant: CNR, CNC

### **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 landlord applied for an order of possession for the rental unit due to unpaid rent, a monetary order for unpaid rent, for authority to retain the tenants' security deposit, and for recovery of the filing fee.

The tenants applied for an order cancelling a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice") and a 1 Month Notice to End Tenancy for Cause.

The landlord's agent (hereafter "landlord") attended the hearing; the tenants did not attend.

The landlord provided the registered mail receipts with the tracking numbers showing that that they served each tenant with their Application for Dispute Resolution and Notice of Hearing by registered mail on July 21, 2014 to the mailing address provided by the tenant in his application for dispute resolution.

Based upon the submissions of the landlords, I find the tenants were served notice of the landlord's hearing and the landlord's application as required by section 89(1) of the Act and the hearing proceeded on the landlord's application in the tenants' absence.

Thereafter the landlord was provided the opportunity to present her evidence orally, refer to documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed the oral and written evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

*Procedural matter*-Despite having their own application for dispute resolution set for hearing on this date and time, the application of the landlord and the Notice of these Hearings, the tenants did not appear. Therefore, pursuant to section 10.1 of the Rules, I dismiss the application of the tenants, without leave to reapply.

### Issue(s) to be Decided

Is the landlord entitled to an order of possession for the rental unit, to authority to retain the tenants' security deposit, further monetary compensation, and to recover the filing fee?

### Background and Evidence

The landlord supplied a written tenancy agreement showing that this tenancy began on January 1, 2006, that the monthly market rent is \$1700, and that the tenants paid a security deposit of \$450 at the beginning of the tenancy. The landlord submitted further that the tenants' rent is subsidized and their contribution to the rent from January 1, 2014 through August 1, 2014, was \$598, as shown by their evidence. The landlord submitted further that beginning on August 1, 2014, the tenants' monthly rent contribution was \$680, as shown by their evidence.

The landlord gave evidence that on July 2, 2014, they served the tenants with a 10 Day Notice, by attaching it to the tenants' door, listing unpaid rent of \$1196 as of July 1, 2014. The effective vacancy date listed on the Notice was July 12, 2014.

Section 90 of the Act states that documents served by posting on the door are deemed delivered three days later. Thus the tenant was deemed to have received the Notice on July 5, 2014, and the effective move out date is automatically changed to July 15, 2013, pursuant to section 53 of the Act.

The Notice informed the tenants that the Notice would be cancelled if the rent was paid within five days. The Notice also explained that alternatively the tenants had five days to dispute the Notice by making an application for dispute resolution.

The tenants did file their application to dispute the Notice, but not within 5 days of receiving it as their application was filed on August 7, 2014.

The landlord supplied evidence that since the Notice was issued to the tenants, they have received partial payments, \$996 on July 24, 2014, \$598 on August 1, 2014, and \$598 on September 5, 2014, and that the tenants have been issued receipts showing the payments were on a use and occupancy only basis.

The landlord submitted that the tenants' current rent deficiency is \$164, through September 2014.

### Analysis

Based on the oral and written evidence and on a balance of probabilities, I find as follows:

I find the landlord submitted sufficient evidence that the tenants were served a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, did not pay the outstanding rent within 5 days of receiving the Notice and did not vacate the rental unit. Additionally the tenants did not appear at the hearing in support of their own application. I find the tenants are therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

Due to the above, I find that the landlord is entitled to an order of possession for the rental unit effective two days after service of the order upon the tenants.

I also find the landlord submitted sufficient evidence that the tenants owe a rent deficiency through the month of September 2014, in the amount of \$164.

I also grant the landlord recovery of their filing fee of \$50.

I therefore find that the landlord is entitled to a monetary award in the amount of \$214, comprised of a rent deficiency of \$164 through September 2014, and the \$50 filing fee paid by the landlord for this application.

### Conclusion

The landlord's application is granted.

I grant the landlord a final, legally binding order of possession for the rental unit, which is enclosed with the landlord's Decision. Should the tenants fail to vacate the rental unit pursuant to the terms of the order after being served, the order may be filed in the

Supreme Court of British Columbia for enforcement as an order of that Court. The tenants are advised that costs of such enforcement are recoverable from the tenants.

At the landlord's request, I allow the landlord to retain from the tenants' security deposit the amount of \$214, in satisfaction of their monetary award.

The tenants' application is dismissed due to their failure to attend the hearing and as I have granted the landlord's application.

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: September 18, 2014

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Residential Tenancy Branch

