



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Dispute Codes

OPR, MNR, MNSD, MT, CNL, MNDC, FF

This hearing dealt with two related applications. One was the landlords' application for an order of possession, a monetary order and an order permitting retention of the security deposit in partial satisfaction of the claim. The other was the tenant's application for orders setting aside a notice to end tenancy, granting him more time in which to make that application and awarding him monetary compensation.

Although the tenant was served with the landlords' Application for Dispute Resolution and Notice of Hearing by registered mail and he was the applicant on one of the applications scheduled for this date, the tenant did not appear.

At the beginning of the hearing the landlords advised that they had come to an agreement with the tenant and that this agreement was set out in a series of e-mails between them. They had not yet filed the e-mails in evidence but undertook to do so immediately after the hearing. I obtained some information from the landlords and stated that a decision and orders would be provided upon confirmation of the terms of the agreement as set out in the e-mails.

The landlords did file the evidence immediately after the hearing. However, because of the volume of documents filed with the Residential Tenancy Branch every day the additional evidence was not provided to me by the staff until several days later. By then I was away from the office for a few days. Hence the delay in issuing this decision and orders.

Because of the elapse of time I have altered the terms of the order of possession to reflect the lapse of time but to still reflect the agreement of the parties.

The tenant had been served with a 2 Month Notice to End Tenancy for Landlord's Use with an effective date of October 15, 2014. The landlords subsequently served him with a 10 Day Notice to End Tenancy for Non-Payment of Rent on August 18, 2014. The tenant had not paid the rent since July 15, 2014. Pursuant to the 2 Month Notice to End Tenancy he was entitled to one month of free rent. In the correspondence between the parties the tenant acknowledged that he owed the landlords rent in the amount of \$1400.00.

Because the tenant did not pay the acknowledged arrears of rent within the time limited for doing so the landlords are entitled to an order of possession.

The parties agreed in their correspondence that if the tenant complies with the following agreement, the landlords will permit the tenant to remain in the rental unit until October 31, 2014:

Payments of \$350.00 each, on October 21 and 27, 2014, respectively.

The agreement was that the landlords would obtain an order of possession effective two days after service. If the tenant did not make the payments as set out above the landlords could exercise that order of possession. In any event, the tenancy was to end October 31, 2014.

In light of the current circumstances an order of possession effective 1:00 pm, October 31, 2014 is granted to the landlords. If necessary, this order may be filed in the Supreme Court of British Columbia and enforced as an order of that court.

The parties agreed that the security deposit of \$700.00 would be applied to the arrears of rent. Accordingly, I order that the landlords may retain the security deposit in partial satisfaction of their claim.

I also grant the landlord a monetary order pursuant to section 67 in the amount of \$700.00. If the tenant fails to make the payments as set out in this decision the order may be filed in the Small Claims Court and enforced as an order of that court.

The landlords waived any claim to rent for the period from October 16 to October 31, 2014 and to the fee they paid to file this application. The landlords retain their right to claim against the tenant for any damages that may arise as a result of the move-out inspection and for any over holding rent that may be incurred if the tenant does not move out of the rental unit by October 31.

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: October 29, 2014

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Residential Tenancy Branch

