



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes            OPR, MNR & FF

### Introduction

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the 10 day Notice to End Tenancy was sufficiently served on the Tenants by posting on November 1, 2014. Further I find that the Application for Dispute Resolution/Notice of Hearing was sufficiently served on the Tenants by mailing, by registered mail to where the tenants reside on November 13, 2014. With respect to each of the applicant's claims I find as follows:

### Issue(s) to be Decided

The issues to be decided are as follows:

- a.        Whether the landlord is entitled to an Order for Possession?
- b.        Whether the landlord is entitled to A Monetary Order and if so how much?
- c.        Whether the landlord is entitled to recover the cost of the filing fee?

### Background and Evidence

The parties entered into a written tenancy agreement that provided that the tenancy would start on July 1, 2005. The tenants paid a security deposit of \$850 at the start of the tenancy. The present rent is \$2300 per month payable in advance on the first day of each month.

The landlord testified the tenants have failed to pay the rent for the months of August, September, October and November and the sum of \$9200 remains owing. In addition the tenants owe \$2300 for December.

The tenant(s) acknowledge they are responsible for bank charges as well. The parties have agreed the tenants owe the landlord the sum of \$12,000 for rent and bank charges etc. to the end of December 2014. The tenant(s) have remained in the rental unit.

Settlement:

The parties reached a settlement and they ask that I record the settlement pursuant to section 63(2) of the Residential Tenancy Act as follows:

- a. The tenants acknowledge they owe the landlord the sum of \$12,200 for outstanding rent and bank charges to the end of December 2014.
- b. The parties request that the arbitrator issue a monetary order in the sum of \$12,200 and an Order for Possession effective December 16, 2014.
- c. The tenant represents that she shall pay the landlord the sum of \$12,200 on or before December 15, 2014.
- d. The landlord request that the tenants pay the landlord's agent EL and he has provided the tenant with his agent's telephone number.
- e. The landlord agrees that provided the tenants pay the landlord as provided above the landlord shall not enforce his rights under the monetary order and Order for Possession and the landlord shall reinstate the tenancy. However, if the tenants fail to make the payment as provided above the landlord retains the right to enforce the orders which accompany this decision.

Analysis - Order of Possession:

I determined the landlord was entitled to an Order for Possession. There is outstanding rent. The Tenant(s) have not made an application to set aside the Notice to End Tenancy and the time to do so has expired. In such situations the Residential Tenancy Act provides the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and must vacate the rental unit by that date. **Accordingly, I granted the landlord an Order for Possession effective December 16, 2014.**

The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court of British Columbia for enforcement.

Analysis - Monetary Order and Cost of Filing fee

**The parties agree the tenants owe the landlord the sum of \$12,200. I granted the landlord a monetary order in the sum of \$12,200.**

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial 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: December 11, 2014

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Residential Tenancy Branch

