



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, FF

### Introduction

This matter dealt with an application by the Landlord for an Order of Possession and a Monetary Order for unpaid rent and to recover the filing fee for this proceeding.

The Landlord said she served the Tenants with the Application and Notice of Hearing (the “hearing package”) by personal delivery on January 20, 2015. Based on the evidence of the Landlord, I find that the Tenants were served with the Landlords’ hearing package as required by s. 89 of the Act and the hearing proceeded in the Tenants absence.

### Issues(s) to be Decided

1. Does the Landlord have grounds to end the tenancy?
2. Are there rent arrears and if so, how much?
3. Is the Landlord entitled to compensation for unpaid rent and if so how much?

### Background and Evidence

This tenancy started in October, 2009 as a month to month tenancy. Rent is \$850.00 per month payable in advance of the 1<sup>st</sup> day of each month. The Tenants paid a security deposit of \$425.00 on November 20, 2009.

The Landlord said that the Tenants did not pay \$500.00 of rent for December, 2014 when it was due and as a result, on January 5, 2015 the Landlords personal delivered a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated January 5, 2015. The Landlord said the Tenants have unpaid rent for January and February, 2015, but she is only claiming the January, 2015 rent of \$850.00 because she wants the Tenants to move out as soon as possible.

The Landlord further indicated that the Tenants are living at the rental unit and the Tenants have told the Landlord that they are looking for other accommodations, but the Landlord said the Tenants did not indicate when. The Landlord requested an Order of Possession for as soon as possible if their application is successful.

The Landlord also sought to the \$50.00 filing fee for this proceeding.

### Analysis

Section 46(4) of the Act states that **within 5 days of receiving** a Notice to End Tenancy for Unpaid Rent or Utilities, a Tenant must pay the overdue rent or apply for dispute resolution. If the Tenant fails to do either of these things, then under section 46(5) of the Act, they are conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice and they must vacate the rental unit at that time.

Under s. 90 of the Act, the Tenants are deemed to have received the Notice to End Tenancy on January 5, 2015. Consequently, the Tenants would have had to pay the amount stated on the Notice or apply to dispute that amount no later than January 10, 2015.

I find that the Tenants have not paid the overdue rent and has not applied for dispute resolution. Consequently, I find pursuant to s. 55(2)(b) of the Act that the Landlord is entitled to an Order of Possession to take effect 48 hours after service of it on the Tenants.

I also find that the Landlords are entitled to recover unpaid rent for December, 2014, in the amount of \$500.00 and unpaid rent for January, 2015 in the amount of \$850.00.

As the Landlords have been successful in this matter, they are also entitled to recover from the Tenant the \$50.00 filing fee for this proceeding. The Landlords will receive a monetary order for the balance owing as following:

Rent arrears:	\$1,350.00	
Recover filing fee	\$ 50.00	
Subtotal:		\$1,400.00
Balance Owing		\$1,400.00

Conclusion

An Order of Possession effective 2 days after service of it on the Tenants and a Monetary Order in the amount of \$1,400.00 have been issued to the Landlords. A copy of the Orders must be served on the Tenants: the Order of Possession may be enforced in the Supreme Court of British Columbia and the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia.

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: February 02, 2015

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Residential Tenancy Branch

