



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPR, MNR

### 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; and
- a monetary order for unpaid rent and utilities pursuant to section 67.

The tenants did not attend this hearing, although I waited until 1:56 p.m. in order to enable the tenants 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, and to make submissions regarding his application. During the hearing, the landlord withdrew his application for a monetary award in this matter and maintained only his application for an Order of Possession.

The landlord testified that he hired a process server to serve the tenants with their 10 Day Notice to End Tenancy for Unpaid Rent or Utilities ("the 10 Day Notice"). He testified, supported by documentary evidence, that the process server placed the 10 Day Notice on the rental unit door on January 13, 2015. Pursuant to section 88 and 90 of the *Act*, I find the tenants deemed served on January 16, 2015, 3 days after the posting of the notice.

The landlord testified that he served the tenants with his Application for Dispute Resolution and Notice of Hearing by sending it to the tenants at their rental unit address by registered mail on January 23, 2015. Pursuant to section 89 and 90 of the *Act*, I find the tenants deemed served on January 28, 2015, 5 days after the mailing of the package.

### Issue to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent?

### Background and Evidence

The landlord testified that this month to month tenancy began on July 1, 2014. The rental amount of \$1200.00 was payable on the first of each month. The landlord testified that the tenants did not pay a security deposit at the beginning of this tenancy. The landlord also testified that there is no written tenancy agreement between the parties however he provided a document titled 'tenancy agreement' with his documentary evidence. He testified that this is an informational sheet that he provides but does not have tenants sign. In this case, he testified he was particularly lenient on creating a formal agreement as he knew the tenants.

The landlord has applied for an Order of Possession for unpaid rent for the outstanding rental arrears prior to January 2015. The landlord testified that the tenants did not pay rent of \$1200.00 due on January 1, 2015 and that several other outstanding amounts remain from unpaid rent in 2014. The landlord provided an accounting of previous unpaid rent with his documentary evidence. That evidence also supported the landlord's claim that the tenants were obliged to pay utilities at the premises. The landlord testified that, while he resides on the same acreage as the tenants, he has not spoken to them for approximately month. He testified that there are many items on their property, around and near their rented residence and he believes that they are still residing on the residential property.

The landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent. The landlord testified that the tenants did not pay the January rent or prior rental arrears or unpaid utilities after receiving the 10 Day Notice on January 16, 2015. The landlord applied for an Order of Possession based on unpaid rent.

The landlord originally sought a monetary award totalling \$3432.00 in outstanding rent, rental loss, unpaid utilities and fees. The landlord withdrew his application for any monetary award and did not seek recovery of his filing fee.

### Analysis

The tenants failed to pay January 2015 rent or the outstanding 2014 rental arrears as well as the utility bills within five days of receiving the 10 Day Notice to End Tenancy. 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 their tenancy on the effective date of the notice. In this case, this required the tenants to

vacate the premises by January 26, 2015. As that has not occurred, I find that the landlord is entitled to a 2 day Order of Possession.

The landlord withdrew his application for a monetary award at this time. I dismiss his application with respect to a monetary award with leave to reapply.

### Conclusion

I am granting the landlords an Order of Possession to be effective two days after notice is served to the tenants. 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.

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 19, 2015

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Residential Tenancy Branch

