



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes            OPR, OPC, MNR, MNSD, MNDC, FF

### Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking to cancel a notice to end tenancy.

The hearing was conducted via teleconference and was attended by the landlord.

The landlord testified each tenant was served with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act* (Act) personally on February 15, 2015 in accordance with Section 89 and that this service was witnessed by a third party.

Based on the testimony of the landlord, I find that each tenant has been sufficiently served with the documents pursuant to the Act.

### Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for unpaid rent or for cause; to a monetary order for unpaid rent; for all or part of the security deposit and to recover the filing fee from the tenants for the cost of the Application for Dispute Resolution, pursuant to Sections 38, 46, 55, 67, and 72 of the *Residential Tenancy Act* (Act).

### Background and Evidence

The landlord has submitted the parties signed a tenancy agreement on May 7, 2014 for a 3 month fixed term tenancy beginning on May 7, 2014 for a monthly rent of \$850.00 due on the 1<sup>st</sup> of each month with a security deposit of \$425.00 and a pet damage deposit of \$100.00 paid.

The landlord submitted into evidence the following documents:

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent issued on January 28, 2015 with an effective vacancy date of February 16, 2015 due to unpaid rent in the amount of \$650.00; and
- A copy of a 1 Month Notice to End Tenancy for Cause issued on January 29, 2015 with an effective vacancy date of February 28, 2015 citing the tenants are repeatedly late paying rent.

The landlord submits that he served the tenants both notices by posting them on the door of the rental unit on January 29, 2015. The landlord testified the tenants have failed to pay rent in the

following amounts \$100.00 for the month of December 2014; \$550.00 for the month of January 2015; \$850.00 for each of February and March 2015.

### Analysis

Section 46 of the *Act* states a landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end the tenancy on a date that is not earlier than 10 days after the date the tenant receives the notice. A notice under this section must comply with Section 52 of the *Act*.

Section 46(4) allows the tenant to either pay the rent or file an Application for Dispute Resolution to dispute the notice within 5 days of receipt of the notice.

Section 46(5) states that if a tenant who has received a notice under this section does not pay the rent or make an Application for Dispute Resolution to dispute the notice within the allowed 5 days 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.

As there is no evidence before me that the tenants have paid the rent owed in full or filed an Application for Dispute Resolution to cancel the Notice within 5 days of receiving it, I find the tenants are deemed to have accepted the end of the tenancy and must vacate the rental unit.

### Conclusion

I find the landlord is entitled to an order of possession effective **two days after service on the tenants**. This order must be served on the tenants. If the tenants fail to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

I find the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$2,400.00** comprised of \$2,350.00 rent owed and the \$50.00 fee paid by the landlord for this application.

I order the landlord may deduct the security deposit and pet damage deposit held in the amount of \$525.00 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$1,875.00**. This order must be served on the tenants. If the tenants fail to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be 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: March 05, 2015

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Residential Tenancy Branch

