



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding HOMELIFE GLENAYRE REALTY CHILLIWACK LTD  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MNR, MNDC, MNSD, FF

### 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;
- a monetary order for unpaid rent, damage or loss pursuant to section 67;
- authorization to retain all or a portion of the tenants' security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenants pursuant to section 72.

The tenants did not attend this hearing, although I waited until 9:45 a.m. in order to enable the tenants to connect with this teleconference hearing scheduled for 9:30 a.m. The landlord attended the hearing and was given a full opportunity to be heard, to present sworn testimony, and to make submissions.

The landlord provided evidence that a 10 Day Notice to End Tenancy for Unpaid Rent was personally served to the tenants on September 16, 2014 by posting it on the rental unit door. The landlord gave sworn testimony that she served the tenants with individual Application for Dispute Resolution hearing packages on February 16, 2015. She provided copies of the receipts and tracking information for those packages. She testified that the tenants confirmed receipt of the packages to her. I accept that the tenants were each duly served with the 10 Day Notice and the Application for Dispute Resolution hearing package.

### Issues to be Decided

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

Is the landlord entitled to a monetary award for unpaid rent and losses arising out of this tenancy?

Is the landlord entitled to retain all or a portion of the tenants' security deposit towards any monetary award?

Is the landlord entitled to recover the filing fee for this application from the tenants?

### Background and Evidence

The landlord gave evidence that the rental agreement for the premises began in August 2014. The rental amount is \$670.00 payable on the first of each month. The landlord testified that she continued to hold the \$335.00 security deposit paid by the tenants on July 15, 2014.

The landlord has applied for an Order of Possession for unpaid rent for rental arrears. The landlord testified that she took over management of this building in September 2014. She testified there were no prior records of payments for many of the individuals residing in the apartment building. She testified that, while she served the 10 Day Notice to the tenants in September 2014 when they did not pay rent, she also served notices to many other tenants. She testified that she has been trying to work out payment arrangements for a variety of tenants and that she can only deal with so many tenants at a time. She testified that this is the reason she has not acted on the 10 Day Notice until February 2015. Further comment on 10 day notice service/op

The landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent. The landlord testified that the tenants did not pay the September rent after receiving the 10 Day Notice on September 19, 2014. The landlord testified that the tenants have not paid rent in September, October, November or December 2014 or January, February or March 2015. She testified that an outstanding amount of \$235.00 remains from August 2014. She testified that a total of \$4255.00 in unpaid rent is owed by the tenants.

The landlord noted that late charges are provided for within the tenancy agreement however she testified that she does not seek those amounts (\$100.00) from the tenants.

The landlord also testified that she has inspected the inside the rental unit and anticipates the need for substantial cleaning and repairs when the tenants vacate the residence. She testified that the rental unit will unlikely be available to rent before April 1, 2015.

### Analysis

The tenants failed to pay the September 2014 rent 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 tenant to vacate the premises by September 30, 2015, the date provided in the 10 Day Notice by the landlord. As that has not occurred, I find that the landlord is entitled to a 2 day Order of Possession.

I find that the landlord is entitled to receive an order for unpaid rent from August 2014 to February 2015. I accept the uncontested evidence, supported by documentary materials offered by the landlord that there has been no rent paid in over seven months but that she has been attempting to resolve the matter with the tenants. I am issuing the attached monetary order that includes the landlord's application for \$4255.00 in unpaid rent for part of August 2014, September 2014, October 2014, November 2014, December 2014, January 2015, and February 2015.

I find the landlord is also entitled to receive an order for rental loss in March 2015. As of the date of this hearing, the landlord testified that the tenants had paid no rent for March. The landlord testified that the rental unit will require repairs and cleaning when the tenants move out. The monetary order for the month of March 2015 is based on the landlord's sworn testimony that she will be unable to rent the premises for that month. The \$670.00 monetary order for March 2015 is to reflect the lack of notice that the landlord has to make alternate rental arrangements for these premises before the end of March.

The landlord testified that she continues to hold a security deposit of \$335.00 plus any interest from August 2014 to the date of this decision for this tenancy. There is no interest payable for this period. I will allow the landlord to retain the security deposit in partial satisfaction of the monetary award.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$50.00 filing fee paid for this application.

### Conclusion

I am granting the landlord 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.

I issue a monetary Order in favour of the landlords as follows:

Rental Arrears for August 2014	\$235.00
Rental Arrears for: September 2014 – February 2015	4020.00
Rental Loss for March 2015	670.00
Less Security Deposit	-335.00
Recovery of Filing Fee for this application	50.00
<b>Total Monetary Award</b>	<b>\$4640.00</b>

The landlord is provided with formal Orders in the above terms. Should the tenant(s) fail to comply with these Orders, these Orders may be filed and enforced as Orders of the Provincial 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: March 12, 2015

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Residential Tenancy Branch

