



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: OPR, MNR, FF

### Introduction

This hearing was scheduled in response to an application by the landlords for an order of possession / a monetary order as compensation for unpaid rent / and recovery of the filing fee. The landlords and a family member assisting them attended the hearing. Through the family member the landlords gave affirmed testimony.

The landlords testified that the application for dispute resolution and the notice of hearing (the “hearing package”) was personally served on the tenant on February 20, 2015. Despite this, the tenant did not appear. Based on the documentary evidence and the affirmed / undisputed testimony of the landlords, I find that the hearing package was duly served on the tenant in accordance with section 89 of the Act which speaks to **Special rules for certain documents.**

### Issue(s) to be Decided

Whether the landlords are entitled to the above under the Act, Regulation or tenancy agreement.

### Background and Evidence

There is no written tenancy agreement in evidence for this tenancy which began sometime in 2007. The current monthly rent is \$650.00, and it is due and payable in advance on the first day of each month. A security deposit of \$300.00 was collected near the start of tenancy.

The landlords issued a 10 day notice to end tenancy for unpaid rent dated February 03, 2015. The notice was personally served on that same date. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenant must vacate the unit is February 14, 2015. Subsequently, the tenant has made no further payment toward rent and he continues to reside in the unit.

### Analysis

Based on the documentary evidence and the affirmed / undisputed testimony of the landlords, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent dated February 03, 2015. The tenant did not pay the full amount of outstanding rent within 5 days of receiving the notice, and did not apply to dispute the notice. The tenant is therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the notice. Accordingly, I find that the landlords have established entitlement to an **order of possession**.

As for the compensation, I find that the landlords have established a claim of **\$2,000.00**:

\$650.00: *unpaid rent for January 2015*

\$650.00: *unpaid rent for February 2015*

\$650.00: *unpaid rent for March 2015*

\$50.00: *filing fee*

Section 72 of the Act addresses **Director's orders: fees and monetary orders**, and provides in part as follows:

72(2) If the director orders a party to a dispute resolution proceeding to pay any amount to the other, including an amount under subsection (1), the amount may be deducted

(b) in the case of payment from a tenant to a landlord, from any security deposit or pet damage deposit due to the tenant.

Following from all the above, I order that the landlords retain the security deposit of \$300.00, in addition to accrued interest in the amount of \$6.81 [**total: \$306.81**] and I grant the landlords a **monetary order** for the balance owed of **\$1,693.19** (\$2,000.00 - \$306.81).

**NOTE:** In the absence of any conclusive evidence concerning the actual start date of tenancy and the date when the security deposit was collected, the calculation of interest reflects my determination that the security deposit was collected on July 01, 2007, which is exactly midway through 2007, the year when tenancy began.

### Conclusion

I hereby issue an **order of possession** in favour of the landlords effective not later than **two (2) days** after service on the tenant. This order must be served on the tenant. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlords in the amount of **\$1,693.19**. Should it be necessary, this order may be served on the tenant, filed in the Small Claims 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: March 11, 2015

---

Residential Tenancy Branch

