



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

Dispute Codes      OPR MNR MNSD MNDC FF

## Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim.

The landlord participated in the teleconference hearing, but the tenants did not call into the hearing. The landlord submitted evidence that they served the tenants with the application for dispute resolution and notice of hearing by registered mail sent on March 11, 2015. Section 90 of the Act states that a document is deemed to have been served five days after mailing. I found that the tenants were deemed served with notice of the hearing on March 16, 2015, and I proceeded with the hearing in the absence of the tenants.

## Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order?

## Background and Evidence

The tenancy began on January 28, 2009. Rent in the amount of \$1850 is payable in advance on the first day of each month. At the outset of the tenancy, the tenants paid the landlord a security deposit of \$925 and a pet deposit of \$425. The tenants failed to pay \$950 of the rent in the month of February 2015 and on February 28, 2015 the landlord served the tenants with a notice to end tenancy for non-payment of rent. The tenants further failed to pay rent in the months of March and April 2015.

The Landlord's evidence included the following:

- a copy of a residential tenancy agreement, indicating a monthly rent of \$1850 due on the first of each month and confirming that the tenants paid a security deposit of \$925 and a pet deposit of \$425;
- a copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, issued on February 28, 2015, with an effective vacancy date of March 10, 2015, for failure to pay rent in the amount of \$950 that was due on February 1, 2015;
- evidence showing that the tenants were served the 10 Day Notice to End Tenancy for Unpaid Rent by attaching the notice to the rental unit door on February 28, 2015; and
- a copy of the Landlord's Application for Dispute Resolution, filed March 10, 2015.

### Analysis

I have reviewed all evidence and I accept that the tenants were served with the notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenants on March 3, 2015.

I accept the evidence before me that the tenants failed to pay the rent owed within the five days granted under section 46(4) of the Act. I find that the tenants are conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on March 13, 2015, the corrected effective date of the notice. The landlord is therefore entitled to an order of possession.

As for the monetary order, based on the above-noted evidence I find that the landlord has established a claim for \$4,650 in unpaid rent and lost revenue. The landlord is also entitled to recovery of the \$50 filing fee.

### Conclusion

I grant the landlord an order of possession effective two days from service. The tenants must be served with the order of possession. Should the tenants 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.

The landlord is entitled to \$4,700. I order that the landlord retain the security and pet deposits of \$1350 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$3,300. This order may be 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: April 16, 2015

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Residential Tenancy Branch

