



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, MDSD & FF

### Introduction

The Application for Dispute Resolution filed by the landlord makes the following claims:

- a. An Order for Possession for non-payment of rent
- b. A monetary order in the sum of \$4123 for unpaid rent and damages
- c. An order to recover the cost of the filing fee

A hearing was conducted by conference call in the presence of two representatives of the applicant and in the absence of the respondent although duly served. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

I find that the 10 day Notice to End Tenancy was personally served on the Tenant on September 3, 2015. Further I find that the Application for Dispute Resolution/Notice of Hearing was served on the Tenants by mailing, by registered mail to where the Tenants reside on October 23, 2015.

### Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the landlord is entitled to an Order for Possession?
- b. Whether the landlord is entitled to A Monetary Order and if so how much?
- c. Whether the landlord is entitled to retain all or a portion of the security deposit/pet deposit?
- d. Whether the landlord is entitled to recover the cost of the filing fee?

### Background and Evidence

The parties entered into a written tenancy agreement that provided that the tenancy would start on April 1, 2014 and continue on a month to month basis. The present rent is \$1306 per month payable in advance on the first day of each month. The tenants paid a security deposit of \$637.50 at the start of the tenancy.

The tenant(s) failed to pay the rent for the months of leading up to September 2015 and the sum of \$1511 remains owing. The tenants have paid the rent for October, November and December and the landlord has accepted the payments for “use and occupation only.” The tenant(s) continue to live in the rental unit.

Analysis - Order of Possession:

I determined the landlord was entitled to an Order for Possession. There is outstanding rent. The Tenant(s) have not made an application to set aside the Notice to End Tenancy and the time to do so has expired. In such situations the Residential Tenancy Act provides 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 by that date. Accordingly, I granted the landlord an Order for Possession effective December 31, 2015. .

The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court of British Columbia for enforcement.

Analysis - Monetary Order and Cost of Filing fee:

I determined the tenant has failed to pay the rent over several months and the sum of \$1511 remains outstanding. I determined the landlord has given sufficient notice of their intention to claim for all of last month as provided in the Application for Dispute Resolution. I determined the landlord was entitled to the sum of \$1511 for unpaid rent plus the sum of \$50 in respect of the filing fee for a total of \$1561.

Security Deposit:

I determined the security deposit plus interest totals the sum of \$637.50. I ordered the landlord may retain this sum. I ordered the tenants pay to the landlord the balance owing in the sum of \$923.50.

Conclusion:

In summary I granted the landlord an Order for Possession effective December 31, 2015. I determined the tenants owed the landlord the sum of \$1561. I ordered that the landlord shall retain the security deposit of \$637.50. I further ordered that the tenants shall pay to the landlord the balance of this monetary order in the sum of \$923.50.

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial 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: December 18, 2015

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Residential Tenancy Branch

