



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNR MNSD FF O

### Introduction

This hearing convened pursuant to the tenants' application to cancel a notice to end tenancy, as well as for recovery of the security deposit and recovery of the filing fee. The tenants and the landlord participated in the teleconference hearing.

At the outset of the hearing the tenants stated that they were in the process of moving out of the rental unit. The tenants did not oppose the landlord receiving an order of possession.

I informed the tenants that their application for recovery of the security deposit is premature, as their tenancy is not yet over. I therefore dismiss with leave to reapply the tenants' application for recovery of the security deposit.

### Issue(s) to be Decided

Are the tenants entitled to recovery of their filing fee?

### Background and Evidence

On February 4, 2016 the landlord served the tenants with a notice to end tenancy for unpaid rent. The tenants applied on February 9, 2016 to cancel the notice. The tenants were required to pay an application filing fee of \$100.00.

The tenants submitted that the landlord had no ground to issue the notice to end tenancy, and they had to make their application to dispute the notice or they would have been evicted.

The landlord stated that she offered to allow the tenants to pay the prorated rent for November 2015 in January 2016. The landlord stated that the tenants refused to pay that amount, and the tenants were overusing hydro that the landlord could not afford.

### Analysis

I find that the tenants are not entitled to recovery of their filing fee, as they chose to move out before having their application adjudicated. I therefore dismiss the tenants' application for recovery of the filing fee.

### Conclusion

The tenants' application for recovery of the filing fee is dismissed.

The tenants' application for recovery of the security deposit is dismissed with leave to reapply.

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.

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 1, 2016

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Residential Tenancy Branch