



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes OPR MNR MNDC FF

### Introduction

This hearing dealt with an application by the landlord for an order of possession and a monetary order for unpaid rent.

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 May 10, 2016. 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 May 15, 2016, 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 approximately five years ago. Rent in the amount of \$2,000.00 is payable in advance on the first day of each month. The tenant failed to pay rent in the months of October 2015 through April 2016, and on April 28, 2016 the landlord served the tenants with a notice to end tenancy for non-payment of rent. At that time, the tenants also owed \$690.31 in unpaid utilities. The tenants further failed to pay rent or utilities in the months of May and June 2016. The landlord has claimed \$14,000.00 in unpaid rent and \$1,000.30 in unpaid utilities.

The Landlord's evidence included the following:

- a copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, issued on April 28, 2016, with an effective vacancy date of May 10, 2016, for failure to pay rent of \$9,500.00 that was due on April 1, 2016 and utilities of \$690.31 following written demand on February 2, 2016;
- evidence showing that the tenants were served the 10 Day Notice to End Tenancy for Unpaid Rent by registered mail sent on April 28, 2016; and
- a copy of the Landlord's Application for Dispute Resolution, filed May 10, 2016.

#### 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 May 3, 2016.

I accept the evidence before me that the tenants failed to pay the rent and utilities 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 May 13, 2016, 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 \$14,000.00 in unpaid rent and lost revenue, and \$1,000.30 in unpaid utilities. The landlord is also entitled to recovery of the \$100.00 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.

I grant the landlord an order under section 67 for the balance due of \$15,100.30. 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: June 8, 2016

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Residential Tenancy Branch