



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding PRANG HOLDINGS LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MNR, CNR

### Introduction

This hearing dealt with applications from both the landlord and the tenants under the *Residential Tenancy Act* (the *Act*). The landlord applied for:

- an Order of Possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent and for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;

The tenants have applied for:

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46;

Both parties attended the hearing and were given full opportunity to present evidence and make submissions. The parties acknowledged receipt of evidence submitted by the other and gave affirmed testimony.

### Issues(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent?

Is the landlord entitled to a monetary award for unpaid rent?

Should the landlord's 10 Day Notice be cancelled?

### Background and Evidence

The landlords' agent gave the following testimony. The tenancy began on or about July 1, 2009. Rent in the amount of \$775.00 is payable in advance on the first day of each month. The tenant failed to pay \$400.00 rent in the month(s) September and on

September 15, 2016 the landlord served the tenant with a notice to end tenancy. The tenant further failed to pay rent in the month(s) of October and November. The landlords' agent advised that as of today's hearing the amount of unpaid rent is \$1575.00.

The agent disputes that the tenants had overpaid in previous months. The agent testified that the tenants had fallen behind in their rent and that Social Services provided supplementary payments to the landlord to help them "catch up" as long as the tenancy could continue, however after the tenants were caught up in their rent they have fallen behind again the past three months. The agent for the landlord testified that Social Services will no longer assist the tenants. The agent testified that if successful in their application they are content with the order of possession taking effect on November 30, 2016.

The tenants' agent gave the following testimony. The tenants' agent testified that they have withheld paying the rent as they feel they have overpaid the rent in previous months.

### Analysis

While I have turned my mind to all the documentary evidence and the testimony of the parties, not all details of the respective submissions and arguments are reproduced here. My findings around each are set out below.

I find that the tenant was served with a notice to end tenancy for non-payment of rent. The tenant did not pay the outstanding rent within 5 days of receiving the notice and although they did apply for dispute resolution to dispute the notice they have not provided sufficient evidence to have the notice set aside. The tenants' documentation lacked detailed information that supports their position and in the tenants own testimony; they acknowledged that they withheld rent without an order from the Branch or the agreement of the landlord. Based on the above facts I find that the landlord is entitled to an order of possession pursuant to Section 55 of the Act. 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.

As for the monetary order, I find that the landlord has established a claim for \$1575.00 in unpaid rent. Although the landlord's application does not seek to retain the deposit, using the offsetting provisions of section 72 of the *Act*, I allow the landlord to retain the tenant's \$350.00 security deposit in partial satisfaction of the claim and I grant the

landlord an order under section 67 for the balance due of \$1225.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The landlord is granted an order of possession and a monetary order for \$1225.00. The landlord may retain the security deposit.

The tenants' application is dismissed.

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: November 16, 2016

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Residential Tenancy Branch