



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding VANCOUVER EVICTION SERVICES  
name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MNR, MNSD, MNDC, FF

This hearing dealt with the landlords' application pursuant to the *Residential Tenancy Act* ("Act") for:

- an Order of Possession for unpaid rent pursuant to section 55;
- a Monetary Order for unpaid rent pursuant to section 67;
- an order for compensation of monetary losses pursuant to section 67;
- an order to keep all or part of the security deposit pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenants pursuant to section 72.

The tenants did not attend this hearing, which lasted approximately 15 minutes. Both landlords were represented at the hearing by one representative (the "landlord") who was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord testified that a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "10 Day Notice"), dated October 18, 2016 was served on the tenants by posting on the rental unit door on that day. In accordance with sections 88 and 90 of the *Act*, I find that the tenants were deemed served with the landlords' 10 Day Notice on October 21, 2016, three days after posting.

The landlord testified that the landlords' application for dispute resolution dated November 18, 2016 was sent to the tenants by registered mail on November 25, 2016. The landlord provided two Canada Post tracking numbers. In accordance with sections 89 and 90 of the *Act*, I find that the tenants were deemed served with the landlords' application on November 30, 2016, five days after its mailing.

## Issue(s) to be Decided

Are the landlords entitled to an Order of Possession for unpaid rent?

Are the landlords entitled to monetary compensation as claimed?

Are the landlords entitled to recover the filing fee for this application from the tenants?

### Background and Evidence

The landlord provided testimony regarding the following facts. The landlord took over this month-to-month tenancy in June, 2016. The current rent is \$975.00 payable on the 1<sup>st</sup> of the month. A security deposit of \$487.50 was paid at the start of the tenancy and is held by the landlord. The tenants continue to reside in the rental unit at the time of the hearing.

The landlord testified that at the time the 10 Day Notice was issued the tenancy was in arrears by \$1,450.00, the amount initially sought in the 10 Day Notice. The landlord testified that the tenants have made no payments and the total amount owing for the tenancy as of December 20, 2016, the date of the hearing, is \$3,400.00.

### Analysis

The landlord provided undisputed evidence at this hearing, as the tenants did not attend. I find that the tenants were obligated to pay the monthly rent in the amount of \$975.00. I accept the evidence before me that the tenants failed to pay the full rent due within the 5 days of service granted under section 46(4) of the *Act* nor did the tenants dispute the 10 Day Notice within that 5 day period. Accordingly, I find that the tenants are conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the 10 Day Notice, October 31, 2016. Therefore, I find that the landlords are entitled to an Order of Possession, pursuant to section 55 of the *Act*.

I accept the landlord's undisputed evidence that the total amount of arrears for this tenancy is \$3,400.00. I issue a monetary award for unpaid rent owing of \$3,400.00 as at December 20, 2016, the date of the hearing, pursuant to section 67 of the *Act*.

In accordance with sections 38 and the offsetting provisions of 72 of the *Act*, I allow the landlords to retain the tenants' \$487.50 security deposit in partial satisfaction of the monetary award issued in the landlords' favour.

As the landlords' application was successful, the landlords are also entitled to recovery of the \$100.00 filing fee for the cost of this application.

### Conclusion

I grant an Order of Possession to the landlords effective **2 days after service on the tenants**. Should the tenants or anyone on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I issue a monetary order in the landlords' favour in the amount of \$3,012.50 under the following terms, which allows the landlords to recover unpaid rent for the months of September, October, November, and December, and the filing fee for their application, and to retain the tenants' security deposit:

Item	Amount
Unpaid Rent September	\$475.00
Unpaid Rent October	\$975.00
Unpaid Rent November	\$975.00
Unpaid Rent December	\$975.00
Filing Fee Recovery	\$100.00
Less Security Deposit	-\$487.50
<b>Total Monetary Order</b>	<b>\$3,012.50</b>

The tenants must be served with this Order as soon as possible. Should the tenants fail to comply with this Order, this 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 21, 2016

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Residential Tenancy Branch