



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 0813133 B.C. LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MNR, CNR, MNDC

### 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 pursuant to section 67;

The tenants applied for:

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46;
- a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;

Both parties attended the hearing via conference call and provided affirmed testimony. The landlord provided undisputed affirmed evidence that the tenants were both served with the notice of hearing package and the submitted documentary evidence package via Canada Post Registered Mail on February 1, 2017. The tenants confirmed service as claimed by the landlord. The tenants stated that the landlord was served with their notice of hearing package and the submitted documentary evidence in person on January 27, 2017. The landlord confirmed service as claimed by the tenants. Neither party raised any issues in proceeding with the hearing. As both parties have attended and have confirmed receipt of the notice of hearing package(s) and the submitted documentary evidence, I am satisfied that both parties have properly served as per sections 88 and 89 of the Act.

It was clarified with the tenants during the hearing that the monetary claim filed by the tenants was for construction work unrelated to the issue of unpaid rent. As such, this portion of the tenants' application is dismissed with leave to reapply.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for unpaid rent?  
Are the tenants entitled to an order cancelling the 10 Day Notice?  
Is the landlord entitled to a monetary order for unpaid rent?

Background and Evidence

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 / or arguments are reproduced here. The principal aspects of the both the tenant's claim and the landlord's cross claim and my findings around each are set out below.

This tenancy began on July 1, 2016 on a fixed term tenancy ending on June 30, 2017 as shown by the submitted copy of the signed tenancy agreement dated June 29, 2016. The monthly rent is \$1,355.00 payable on the 1<sup>st</sup> day of each month and a security deposit of \$377.50 was paid on June 30, 2016.

Both parties confirmed that the tenants were served with the 10 Day Notice dated January 21, 2017 in person on January 21, 2017 by the landlord. The 10 Day Notice sets out that the tenants failed to pay rent of \$1,201.47 that was due on January 1, 2017 and an effective end of tenancy date of January 31, 2017.

Both parties confirmed that as of January 21, 2017 that the tenants were in arrears for \$1,201.47 as claimed by the landlord based upon the 10 Day Notice dated January 21, 2017. The tenant, F.B. clarified that his co-tenant, D.B. had failed to pay his portion of the rent and that the landlord failed to notify him of the arrears until the 10 Day Notice was served on January 21, 2017. Both parties agreed that the tenant, F.B. had made a partial payment of \$495.00 to the landlord on February 20, 2017 for the accumulated arrears leaving the arrears at \$706.47 outstanding. Both parties also agreed that the tenant, F.B. had made a rent payment for February 2017 of \$650.00 on February 1, 2017 and that the tenant's ministry cheque of \$677.50 was received by the landlord on February 22, 2017 leaving February rental arrears of \$27.50. Both parties confirmed that as of the date of this hearing the tenants were in arrears for \$733.97.

Analysis

Pursuant to section 46 of the Act, a landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end tenancy effective on a date that is not earlier than ten days after the date the tenant receives the notice.

I find based upon the evidence of both parties that the tenants were served with the 10 Day Notice dated January 21, 2017 on January 22, 2017. The tenants failed to pay the outstanding rent within five days of receiving the 10 Day Notice. I accept the undisputed affirmed evidence of both parties and find that the tenants failed to pay the \$1,201.47 accumulated rental arrears owed as claimed by the landlord. The tenant, F.B. confirmed in his direct testimony that he had discovered that his co-tenant had failed to repeatedly pay his portion of the monthly rent leading to the accumulated rental arrears as shown in the landlord's tenant ledger. I find that the landlord is entitled to a two-day order of possession as the effective end of tenancy date has now passed.

I also find based upon the undisputed affirmed evidence of both parties that as of the date of this hearing the tenant is in arrears totalling, \$733.97. As such, I find that the landlord has justified his claim for a monetary order for unpaid rent of \$733.97.

### Conclusion

The landlord is granted an order of possession for unpaid rent.

The landlord is granted a monetary order of \$733.97 for unpaid rent.

These orders must be served upon the tenants. Should the tenants fail to comply with these orders, these orders may be filed in the Supreme Court of British Columbia and the Small Claims Division of the Provincial Court of British Columbia and enforced as orders of those courts.

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: February 24, 2017

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Residential Tenancy Branch