



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      Tenants: CNR, OLC, FFT    Landlord: OPR, MNRL-S, FFL

### Introduction and Preliminary Matters

On September 5, 2018, the Tenants submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (the “Act”) to cancel a 10-day Notice to End Tenancy for unpaid rent, to request an Order for the Landlord to comply with the Act and to be compensated for the cost of the filing fee.

On September 19, 2018, the Landlord submitted an Application for Dispute Resolution under the Act. The Landlord requested an Order of Possession for unpaid rent, a Monetary Order to recover the unpaid rent, and to be compensated for the cost of the filing fee. The Landlord’s Application was crossed with the Tenants’ Application and the matter was set for a participatory hearing via conference call.

The Landlord attended the conference call hearing; however, the Tenants did not attend at any time during the 29-minute hearing. I noted on the case management audit records that the Tenants were provided the Notice of Hearing information at the time that they applied for Dispute Resolution on September 5, 2018.

Rule 7.3 of the *Residential Tenancy Branch Rules of Procedure* states if a party or their agent fails to attend a hearing, the Arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the Application, with or without leave to re-apply.

As the Tenants did not call into the conference, I find that the Tenants have abandoned their Application, therefore, I dismiss the Tenants’ Application without leave to reapply.

The hearing was conducted in the Tenants absence and the Landlord’s Application was considered along with the affirmed testimony and evidence as presented by the Landlord.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issues to be Decided

Should the Landlord receive an Order of Possession, in accordance with Section 46 of the Act?

Should the Landlord receive a Monetary Order for unpaid rent, in accordance with Section 67 of the Act?

Should the Landlord be compensated for the Filing Fee?

### Background and Evidence

The Landlord provided the following undisputed testimony:

The one-year, fixed term tenancy began on March 1, 2018. The monthly rent of \$1,150.00 was due on the first of each month. The Landlord collected and still holds the \$575.00 security deposit.

The Tenants failed to pay rent on September 1, 2018, and on September 4, 2018, the Landlord issued a 10-Day Notice to End Tenancy for Unpaid Rent, dated September 4, 2018 (the "Notice") by posting it on the Tenants' door. The Notice stated that the move-out date was September 15, 2018, if the Tenants did not pay their rent or apply for dispute resolution within 5 days of receiving the Notice.

The Tenants applied to the Residential Tenancy Branch to dispute the Notice and advised the Landlord with the Notice of Hearing.

The Tenants did not pay any rent for September 2018 or October 2018. The Landlord acknowledged that the Tenants only had to pay \$1,050.00 for September's rent in accordance with a previously arbitrated Decision, dated August 23, 2018.

The Landlord stated that he always provided receipts to the Tenants when they paid their rent and did not provide any receipts to the Tenants for September or October 2018.

The Landlord is requesting an Order of Possession for the rental unit and a Monetary Order for the outstanding rent for September 2018 in the amount of \$1,050.00 and for

October in the amount of \$1,150.00 for a total of \$2,200.00. The Landlord has requested to retain and apply the security deposit to his claim.

### Analysis

Based on undisputed evidence, I find that the Tenants entered into a Tenancy Agreement with the Landlord that required the Tenants to pay monthly rent of \$1,150.00 by the first day of each month and that the Tenants have not paid rent from September 1, 2018 through to October 16, 2018. As the Tenant is required to pay rent pursuant to Section 26(1) of the Act, I find that the Landlord has established a monetary claim in the amount of \$2,200.00 in outstanding rent. (the amount claimed by the Landlord).

Section 55 of the Act requires that when Tenants submit an Application for Dispute Resolution seeking to cancel a Notice to End Tenancy issued by a Landlord, I must consider if the Landlord is entitled to an Order of Possession if the Application is dismissed and the Landlord has issued a Notice to End Tenancy that is compliant with the Act.

The Tenants did not attend the hearing and their Application to cancel the Notice is dismissed without leave to reapply. I find that the Landlord has issued a Notice that is compliant with the Act and as such, find that the Landlord is entitled to an Order of Possession.

The Landlord was successful with their Application and as such, is entitled to be reimbursed for the filing fee of \$100.00.

The Landlord has established a monetary claim, in the amount of \$2,300.00, which includes \$2,200.00 in unpaid rent and the \$100.00 in compensation for the filing fee for this Application for Dispute Resolution. Pursuant to section 72(2) of the Act, I authorize the Landlord to keep the Tenants' security deposit of \$575.00, in partial satisfaction of the monetary claim.

Based on these determinations, I grant the Landlord a Monetary Order for the balance of \$1,725.00.

Item	Amount
Unpaid rent for September 2018	\$1,050.00
Unpaid rent for October 2018	1,150.00
Filing Fee	100.00

Minus Security Deposit	-575.00
<b>Total Monetary Order</b>	<b>\$1,725.00</b>

### Conclusion

I grant the Landlord a Monetary Order for a total of \$1,725.00 in accordance with Section 67 of the Act. In the event that the Tenants do not comply with this Order, it may be served on the Tenants, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

Pursuant to Section 55 of the Act, I am granting the Landlord an Order of Possession to be effective two days after notice is served on the Tenants. Should the Tenants fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

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: October 16, 2018

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Residential Tenancy Branch