



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR-S, FF

### Introduction

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

- an order of possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67;
- authorization to retain all or a portion of the tenants' security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- authorization to recover his filing fee for this application from the tenants pursuant to section 72.

Both parties attended the hearing via conference call and provided affirmed testimony. Both parties confirmed the landlord served the tenants with the notice of hearing package and the submitted documentary evidence in person on December 26, 2018. Both parties also confirmed that the tenants did not submit any documentary evidence. Neither party raised any service issues. As both parties have attended and confirmed receipt of the notice of hearing package and the submitted documentary evidence, I am satisfied that both parties have been sufficiently served as per sections 88 and 89 of the Act.

### Issue(s) to be Decided

Is the landlord entitled to an order of possession for unpaid rent?

Is the landlord entitled to a monetary order for unpaid rent and recovery of the filing fee?

Is the landlord entitled to retain all or part of the security deposit?

### 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 applicant's claim and my findings are set out below.

This tenancy began on December 1, 2017 on a fixed term tenancy ending on November 30, 2018 and then thereafter on a month-to-month basis as per the submitted copy of the signed tenancy agreement dated November 27, 2017. The monthly rent is \$1,500.00 payable on the 1<sup>st</sup> day of each month. A security deposit of \$750.00 and a pet damage deposit of \$1,500.00 were paid.

The landlord stated that the tenants were served with a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated October 29, 2018 on October 29, 2018 in person. The 10 Day Notice states that the tenants failed to pay rent of \$7,000.00 that was due on October 1, 2018. The 10 Day Notice provides for an effective end of tenancy date of November 8, 2018.

The landlord claims that the tenants failed to pay rent for 5 months as listed below, totalling \$7,000.00.

\$1,500.00	Unpaid Rent, August 2018
\$1,500.00	Unpaid Rent, September 2018
\$1,500.00	Unpaid Rent, October 2018
\$1,000.00	Unpaid Rent, November 2018
\$1,500.00	Unpaid Rent, December 2018

The tenants stated that they were undergoing many personal issues and did not dispute the landlord's claims.

### 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.

In this case, I accept the undisputed evidence of both parties and find that the landlord did serve the 10 Day Notice to the tenants as claimed. I also accept the undisputed affirmed evidence of both parties that the tenants failed to pay rent as claimed for \$7,000.00. The landlord is granted an order of possession and a monetary order for unpaid rent of \$7,000.00. The landlord is also entitled to recovery of the \$100.00 filing

fee. The order of possession is to be effective 2 days after upon the tenants being served.

I note however, that a \$750.00 security deposit and a \$1,500.00 pet damage deposits were paid as per the submitted signed tenancy agreement dated November 27, 2017. The landlord is cautioned that accepting a pet damage deposit of \$1,500.00 exceeds the allowed amount of  $\frac{1}{2}$  of the monthly rent. I authorize the landlord to retain the \$2,250.00 combined deposits in partial satisfaction of this claim.

### Conclusion

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

The landlord is granted a monetary order for \$4,850.00.

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 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 04, 2019

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Residential Tenancy Branch