



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPRM-DR, FFL

### Introduction

This decision is in respect of the landlords' application for dispute resolution under the *Residential Tenancy Act* (the "Act"). The landlords originally applied by way of direct request proceeding, which was adjourned to a participatory dispute resolution hearing. The landlords sought the following remedies under the Act:

1. an order of possession;
2. a monetary order for unpaid rent; and,
3. a monetary order for recovery of the filing fee.

A dispute resolution hearing was convened at 11:00 A.M. on February 5, 2019, and one of the landlords, was given a full opportunity to be heard, to present testimony, to make submissions, and call witnesses. The tenant did not attend the hearing.

The landlord testified that she served the Notice of Dispute Resolution Proceeding package by way of electronic mail on January 22, 2019, as they had "no choice." The tenant refused to meet with the landlords and did not provide the landlords with her forwarding address. Given the above, I find, pursuant to sections 71(1) and 89(1)(d) of the Act, that the tenant was sufficiently served.

While I have reviewed all oral and documentary evidence submitted that met the requirements of the *Rules of Procedure*, under the Act, and to which I was referred, only evidence relevant to the issues of this application are considered in my decision.

The landlord testified that the tenant has since vacated the rental unit, which is a separate rental unit from where the landlords reside, and as such they no longer seek an order of possession.

### Issues to be Decided

1. Are the landlords entitled to a monetary order for unpaid rent?
2. Are the landlords entitled to a monetary order for the filing fee?

### Background and Evidence

The landlord testified that the tenancy began on April 1, 2018, and monthly rent was \$1,300.00, due on the first of the month. The landlords collected a security deposit of \$650.00, of which they currently retain. There was no pet damage deposit. Submitted into evidence was a copy of the written tenancy agreement.

On November 13, 2018, the landlords served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice"). Service was made in-person, and the Notice indicated that unpaid rent due November 1, 2018 was owing in the amount of \$546.15. The effective end of tenancy date was November 23, 2018. A copy of the Notice was submitted into evidence, along with a Monetary Order Worksheet.

The landlord testified that they seek compensation in the amount of \$546.15 (as indicated on the Notice), an additional \$1,300.00 for unpaid rent for December 2018, and for the filing fee in the amount of \$100.00.

### Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

Section 26 of the Act requires that a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlords comply with the Act, regulations or the tenancy agreement, unless the tenant has a right under the Act to deduct all or some of the rent. Pursuant to section 46 of the Act, the Notice informed the tenant that the Notice would be cancelled if the tenant paid rent within five days of service. The Notice also explained that the tenant had five days from the date of service to dispute the Notice by filing an Application for Dispute Resolution.

The landlords testified, and provided documentary evidence to support their submissions, that the tenant did not pay rent and that \$1,846.15 was owing in overdue at the end of the tenancy. There is no evidence before me that the tenant had a right

under the Act to deduct some or all of the rent, and no evidence indicating that the tenant applied to cancel the Notice.

Taking into consideration the undisputed oral testimony of the landlord, and the documentary evidence presented before me, and applying the law to the facts, I find on a balance of probabilities that the landlords have met the onus of proving their claim. Further, as the landlords are successful in their claim, I grant the landlords a monetary award in the amount of \$100.00 for recovery of the filing fee.

I order that the landlords retain the tenant's security deposit in the amount of \$650.00 in partial satisfaction of the award.

A total monetary order of \$1,295.15 for the landlords is calculated as follows:

CLAIM	AMOUNT
Unpaid rent	\$1,845.15
Filing fee	100.00
<i>LESS</i> security deposit	(\$650.00)
Total:	\$1,295.15

### Conclusion

I grant the landlords a monetary order in the amount of \$1,295.15, which must be served on the tenant. The order may be filed in, and enforced as an order of, the Provincial Court of British Columbia (Small Claims).

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under section 9.1(1) of the Act.

Dated: February 5, 2019

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Residential Tenancy Branch