



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPR, MNR, MNSD, FF

### Introduction

This hearing was convened as the result of the landlords' application for dispute resolution under the Residential Tenancy Act (the "Act"), seeking for an order of possession for the rental unit due to unpaid rent, a monetary order for unpaid rent, for authority to retain the tenants' security deposit and to recover the filing fee.

The parties appeared, the hearing process was explained and the parties were given an opportunity to ask questions about the hearing process.

Thereafter all parties gave affirmed testimony, were provided the opportunity to present their evidence orally and in documentary form prior to the hearing, and make submissions to me.

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.

### Issue(s) to be Decided

Is the landlord entitled to an order of possession for the rental unit due to unpaid rent, for authority to retain the tenants' security deposit, a monetary order for unpaid rent and for recovery of the filing fee?

### Background and Evidence

This tenancy began on November 1, 2011, monthly rent is \$600.00 and a security deposit of \$300.00 was paid by the tenants at the start of the tenancy.

The landlord gave affirmed testimony and supplied evidence that the tenants were served with a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice") listing unpaid rent of \$600.00 on April 25, 2012, by posting on the door. The effective vacancy

date listed on the Notice was May 4, 2012, which is automatically changed under the Act to May 8, 2012, due to the method of service of the Notice.

The Notice informed the tenants that the Notice would be cancelled if the rent was paid within five days. The Notice also explained the tenants had five days to dispute the Notice.

The landlord gave affirmed testimony that the tenants have not made any rent payments since issuance of the Notice and currently owe unpaid rent of \$600.00 for April, May and June, each, for a total of \$1800.00.

The tenants submitted that they did not pay rent due to the landlord's refusal to repair their refrigerator, despite repeated requests. The tenants submitted that withholding of rent was the only way to compel the landlords to make the necessary repairs.

### Analysis

Based on the above testimony and evidence, and on a balance of probabilities, I find as follows:

The tenants did not apply to dispute the Notice and did not pay the rent after receiving the Notice.

I therefore find the tenants are therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

### Conclusion

I find that the landlord is entitled to an order of possession effective **two days** after service on the tenants.

The order of possession is enclosed with the landlords' Decision. This order is a legally binding, final order, and may be filed in the Supreme Court of British Columbia should the tenants fail to comply with this order of possession.

I find that the landlords have established a total monetary claim of \$1850.00 comprised of outstanding rent of \$1800.00 and the \$50.00 filing fee paid by the landlords for this application.

I direct the landlords to retain the tenants' security deposit of \$300.00 in partial satisfaction of their monetary claim and I grant the landlords a monetary order for the balance due in the amount of \$1550.00.

The monetary order is enclosed with the landlords' Decision. This order is a final, legally binding order, and may be filed in the Provincial Court of British Columbia (Small Claims) should the tenants fail to comply with this monetary order.

The tenants were informed that I could not deal with their requests for repairs, as their application was not before me.

I note that the landlords' handwritten tenancy agreement illustrates the landlords' lack of understanding of their obligations under the Residential Tenancy Act. I have included a guidebook to the Act for the landlords to use as a reference for future dealings with tenants.

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: June 15, 2012.

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Residential Tenancy Branch