



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPR OPC MNR FF

### Introduction

This hearing dealt with an Application for Dispute Resolution under the *Residential Tenancy Act* (the “*Act*”) by the landlords for an order of possession for unpaid rent and for cause, for a monetary order for unpaid rent, and to recover the cost of the filing fee.

The male landlord appeared at the teleconference hearing and gave affirmed testimony. During the hearing the landlord was given the opportunity to provide his evidence orally. A summary of the testimony is provided below and includes only that which is relevant to the matters before me.

As the tenants did not attend the hearing, service of the Notice of a Dispute Resolution Hearing (the “Notice”) was considered. The landlord testified under oath that he served the Notice and evidence by hand delivering it via personal service on both tenants at approximately 11:58 a.m. on February 2, 2013 at the rental unit. The landlord stated that his wife was present as a witness when the tenants were served with their respective packages. I accept that the tenants were duly served in accordance with the *Act* on February 2, 2013.

### Issues to be Decided

- Are the landlords entitled to an order of possession for unpaid rent under the *Act*?
- Are the landlords entitled to a monetary order for unpaid rent under the *Act*, and if so, in what amount?

### Background and Evidence

The landlord stated that a month to month tenancy agreement began on November 1, 2012. Monthly rent in the amount of \$600.00 was due on the first day of each month. A

security deposit was requested from the tenants, however, the landlord stated that the tenants failed to pay a security deposit of \$300.00 as required, which led to the serving of the 1 Month Notice to End Tenancy for Cause on the tenants.

The landlord confirmed service of the 10 Day Notice for Unpaid Rent or Utilities, (the "10 Day Notice"), dated February 8, 2013 by personal service on tenant, CL, on February 8, 2013 at approximately 7:47 p.m. at the rental unit. The landlord stated that his cousin, HD, was present at the time tenant CL was served with the 10 Day Notice. The 10 Day Notice was in the amount of \$600.00 which was due February 1, 2013 and had an effective vacancy date of February 18, 2013. The landlord stated that the tenants failed to pay any rent for the month of February 2013 and remain living inside the rental unit. The landlord stated that the tenants did not dispute the 10 Day Notice or pay any rent since being served with the 10 Day Notice.

The landlords' monetary claim is for \$600.00 for unpaid rent for February 2013.

The landlord provided a copy of the tenancy agreement, 10 Day Notice, 1 Month Notice, proof of service and a witness statement in evidence for this proceeding.

### Analysis

Based on the documentary evidence and the undisputed oral testimony provided during the hearing, and on the balance of probabilities, I find the following.

**Order of Possession** – I find that the tenants failed to pay the rent for the month of February 2013 or dispute the 10 Day Notice within 5 days after receiving the 10 Day Notice. The tenants are conclusively presumed pursuant to section 46 of the *Act*, to have accepted that the tenancy ended on the effective date of the 10 Day Notice which was February 18, 2013. Accordingly, **I grant** the landlords an order of possession effective **2 days** after service on the tenants.

**Claim for unpaid rent**– The landlord testified that rent for the month of February 2013 was not been paid by the tenants in the amount of \$600.00. Pursuant to section 26 of the *Act*, tenants must pay rent when it is due in accordance with the tenancy agreement. Based on the above, I find that the tenants have failed to comply with a standard term of the tenancy agreement which stipulates that rent is due monthly on the first of each month. The tenants continue to occupying the unit. The landlords will not regain possession of the unit until after service of the order of possession. I find the landlords have met the burden of proof and **I find** the landlords have established a monetary claim of **\$600.00** comprised of unpaid rent for February 2013.

Based on the above, I do not find it necessary to consider the 1 Month Notice as the tenancy ended based on the 10 Day Notice which the tenants did not dispute.

As the landlords have succeeded with their application, **I grant** the landlords the recovery of the **\$50.00** filing fee.

**Monetary Order** – **I grant** the landlords a monetary order pursuant to section 67 of the *Act* in the amount of **\$650.00** comprised of \$600.00 in unpaid rent, and the \$50.00 filing fee. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

### Conclusion

I find that the landlords have proven their claim and are, therefore, entitled to an order of possession effective **two days** after service upon the tenants. This order must be served on the tenants and may be enforced in the Supreme Court of British Columbia.

I find that the landlords have established a total monetary claim of \$650.00. I grant the landlords a monetary order under section 67 in the amount of \$650.00. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and 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 26, 2013

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Residential Tenancy Branch

