



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Dispute Codes

For the tenant: CNR, CNC, RP, FF

For the landlord: OPR, OPC, MNDC, MNR, MNSD, FF

### Introduction

This hearing was convened as a result of the cross applications of the parties for dispute resolution under the Residential Tenancy Act (the "Act").

The tenants applied for an order cancelling a 10 Day Notice to End Tenancy for Unpaid Rent (the "10 Day Notice"), an order cancelling the landlord's 1 Month Notice to End Tenancy for Cause (the "1 Month Notice"), an order requiring the landlord to make repairs to the rental unit, and for recovery of the filing fee paid for this application.

The landlords applied for an order of possession for the rental unit due to unpaid rent and alleged cause, a monetary order for money owed or compensation for damage or loss and for unpaid rent, for authority to retain the tenants' security deposit, and for recovery of the filing fee.

The landlords attended the hearing; the tenants did not attend.

The landlords testified that they served each tenant with their Application for Dispute Resolution and Notice of Hearing by registered mail on September 17, 2014. The landlords provided testimony of the tracking numbers for the registered mail.

Based upon the submissions of the landlords, I find the tenants were served notice of the landlords' hearing and the landlords' application as required by section 89(1) of the Act and the hearing proceeded on the landlords' application in the tenant's absence.

Thereafter the landlords were provided the opportunity to present their evidence orally, refer to documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed the oral and written evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

*Procedural matter*-Despite having their own application for dispute resolution set for hearing on this date and time, the application of the landlords and the Notice of these Hearings, the tenants did not appear.

Therefore, pursuant to section 10.1 of the Rules, I dismiss the application of the tenants, without leave to reapply.

*Preliminary matter*-The landlord submitted that they confirmed the tenants vacated the rental unit by September 25, 2014, and as a result, the landlord was no longer seeking an order of possession for the rental unit. I have excluded this request from further consideration.

#### Issue(s) to be Decided

Are the landlords entitled to authority to retain the tenant's security deposit, further monetary compensation, and to recover the filing fee?

#### Background and Evidence

The landlords supplied a written tenancy agreement showing that this tenancy began on December 1, 2012, that monthly rent is \$1800, and that the tenants paid a security deposit of \$875 at the beginning of the tenancy.

The landlords gave evidence that on September 3, 2014, they served the tenants with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, by leaving it personally with tenant MH, listing unpaid rent of \$3600 as of September 1, 2014. The effective vacancy date listed on the Notice was September 13, 2014.

The Notice informed the tenants that the Notice would be cancelled if the rent was paid within five days. The Notice also explained that alternatively the tenants had five days to dispute the Notice by making an application for dispute resolution.

Although the tenants did file their application to dispute the Notice, the landlord submitted that they failed to pay any rent prior to vacating, and owed rent of \$3600, as listed on the Notice, or unpaid rent for August and September of \$1800 each.

The landlords' monetary claim also listed anticipated unpaid rent for November and December, NSF fees of \$10 for August and September, \$5 for an anticipated NSF fee for November, interest on unpaid rent, and the filing fee of \$50.

The landlords' additional relevant documentary evidence included a copy of the 10 Day and 1 Month Notice.

#### Analysis

Based on the undisputed oral and written evidence of the landlords, I find that the landlords submitted sufficient evidence that the tenants were served a 10 Day Notice to End Tenancy for

Unpaid Rent or Utilities, and did not pay the outstanding rent prior to vacating the rental unit. I further find that the landlords have proven that the tenants owed and failed to pay the monthly rent due for August and September, in a total amount of \$3600.

I also grant the landlords the amount of \$10 for NSF fees for August and September 2014, and recovery of the filing fee of \$50 paid for this application.

I therefore find that the landlords are entitled to a monetary award of \$3660 comprised of unpaid rent of \$3600 for August and September 2014, NSF fees of \$10, and the filing fee of \$50.

### Conclusion

The landlords' application for monetary compensation is granted.

At the landlords' request, I allow the landlords to retain the tenants' security deposit of \$875 in partial satisfaction of their monetary award of \$3660 and I grant the landlords a final, legally binding monetary order for the balance due pursuant to section 67 of the Act for the amount of \$2785, which is enclosed with the landlords' Decision.

Should the tenants fail to pay the landlords this amount without delay after the order has been served upon them, the order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an order of that Court. The tenants are advised that costs of such enforcement are recoverable from the tenants.

The tenants' application is dismissed due to their failure to attend the hearing and as I have granted the landlords' application.

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 30, 2014

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Residential Tenancy Branch

