



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, MNSD, FF, CNR

### Introduction

There are applications filed by both parties. The landlord seeks an order of possession and a monetary order for unpaid rent, to keep all or part of the security deposit and recovery of the filing fee. The tenant seeks an order to cancel the notice to end tenancy.

The landlord attended the hearing by conference call and gave undisputed testimony. The tenants did not attend or submit any documentary evidence. The landlord states that the tenants were served in person on October 4, 2014 and have submitted a signed witness statement that confirms service in this manner. I accept the undisputed testimony of the landlord and find that the tenants have been properly served with the notice of hearing package and the submitted documentary evidence.

The landlord stated at the beginning of the hearing that she only received a partial package from the tenant in their dispute resolution notice of hearing package and that no particulars of the application were provided. As such, I find that the tenant's application was improperly served and is dismissed with leave to reapply. Leave to reapply is not an extension of any applicable time period.

### Issue(s) to be Decided

Is the landlord entitled to an order of possession?  
Is the landlord entitled to a monetary order?  
Is the landlord entitled to retain the security deposit?

### Background and Evidence

This tenancy began on May 1, 2014 on a month to month basis as shown by the submitted copy of the signed tenancy agreement. The monthly rent is \$1,100.00 and a security deposit of \$550.00 was paid.

The landlord states that the tenant was served with two 10 day notice to end tenancy issued for unpaid rent dated September 5, 2014. The first notice states that the tenant failed to pay rent of \$1,100.00 that was due on August 1, 2014 with an effective end of tenancy date of August 11, 2014 and the second notice states that the tenant failed to pay rent of \$1,100.00 that was due on September 1, 2014 with an effective end of tenancy date of September 15, 2014. The landlord states that the notice was served in person on September 5, 2014 in person to the tenant, S.S. with the witness, T.M. who is her brother. Witness, T.M. confirmed in his direct testimony that he witnessed the landlord give the tenant a copy of a two page 10 day notice to end tenancy issued for unpaid rent on September 5, 2014.

The landlord has provided a monetary worksheet that shows that the tenant has not paid rent from August 1, 2014 until the date of this hearing for \$4,400.00 and \$225.00 for an unpaid pet damage deposit. The landlord states that since the notice was served to the date of this hearing, the tenants have failed to pay any rent.

### Analysis

I accept the undisputed evidence of the landlord and find that a claim has been established by the landlord for an order of possession and a monetary order for unpaid rent. I find that the tenants have been properly served with the 10 day notice to end tenancy issued for unpaid rent dated September 5, 2014. The tenants have not disputed the notice, nor have they paid the rent as demanded by the landlord. The tenants are conclusively presumed to have accepted the notice and that the tenancy would end on September 15, 2014. The landlord is granted an order of possession. The tenants must be served with the order of possession. Should the tenants fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

As for the monetary claim for unpaid rent, I find that the landlord has established a claim for unpaid rent of \$3,300.00 for the months August to October. I find that as November

has not yet been incurred that this portion of the claim is premature and is dismissed with leave to reapply. The landlords request for \$225.00 for an unpaid pet damage deposit is dismissed as this is an amount that does not apply to rent and should have been rectified at the beginning of the tenancy. The landlord is also entitled to recovery of the \$50.00 filing fee for being successful in the application. I order that the landlord retain the \$550.00 security deposit in partial satisfaction of the claim and I grant a monetary order under section 67 of the Act for \$2,800.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

### Conclusion

The landlord is granted an order of possession and a monetary order for \$2,800.00. The landlord may retain the security deposit.

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

