



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

**Dispute Codes**      OPR, MNR, MNSD, FF

### **Introduction**

This hearing was convened by way of conference call to deal with the landlord's application for an Order of Possession for unpaid rent or utilities; for a monetary order for unpaid rent or utilities; for an order permitting the landlord to retain the security deposit in partial satisfaction of the claim; and to recover the filing fee from the tenant for the cost of this application.

An agent for the landlord company attended the hearing, gave affirmed testimony, and provided an evidence package in advance of the hearing. Despite being served with the Landlord Application for Dispute Resolution and notice of hearing documents personally on October 28, 2010, the tenant did not attend the conference call hearing. All information provided has been reviewed and is considered in this Decision.

### **Issues(s) to be Decided**

Is the landlord entitled to an Order of Possession for unpaid rent or utilities?

Is the landlord entitled to a monetary order for unpaid rent or utilities?

Is the landlord entitled to retain the security deposit in partial satisfaction of the claim?

### **Background and Evidence**

At the outset of the hearing, the landlord's agent testified that all arrears have been paid by the tenant, and the landlord no longer wishes an Order of Possession and withdraws all applications, with the exception of recovery of the filing fee for the cost of this application.

This month-to-month tenancy began on September 1, 1992 and the tenant still resides in the rental unit. Rent in the amount of \$707.95 per month is payable in advance on the 1<sup>st</sup> day of each month. The tenant is also obligated to pay a locker fee in the amount of \$10.00 per month. At the outset of the tenancy, the landlord collected a security deposit from the tenant in the amount of \$265.00.

The agent further testified that the tenant failed to pay rent for the month of October, 2010, and on October 5, 2010 the landlord served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, a copy of which was provided in advance of the hearing. That notice states that the tenant failed to pay rent in the amount of \$717.95 that was due on October 1, 2010, and has an expected date of vacancy of October 17, 2010. The landlord applied for dispute resolution on October 25, 2010 claiming an Order of Possession for unpaid rent, a monetary order for unpaid rent, an order permitting the landlord to retain the security deposit in partial satisfaction of the claim for unpaid rent, and to recover the filing fee from the tenant.

On October 29, 2010 the tenant paid the landlord \$400.00 leaving \$317.95 outstanding. The tenant further failed to pay rent on November 1, 2010, but paid \$500.00 on November 5, 2010. The tenant then paid all arrears in full on November 19, 2010.

### **Analysis**

In the circumstances, I find that the landlord was within its right to apply for dispute resolution.

Section 59 of the *Residential Tenancy Act* states that an application for dispute resolution must be accompanied by the fee prescribed in the regulations. Section 62 states that the director has authority to determine disputes in relation to which the director has accepted an application for dispute resolution, and any matters related to that dispute that arise under the *Act* or a tenancy agreement.

I find that the filing fee is a matter relating to the dispute filed by the landlord on October 25, 2010, and the landlord is therefore entitled to recover that fee from the tenant.

**Conclusion**

I grant the landlord an order under section 67 for recovery of the \$50.00 filing fee from the tenant. This order may be filed in the Provincial Court of British Columbia, Small Claims division and enforced as an order of that Court.

The landlord's application for an Order of Possession is hereby dismissed.

The landlord's application for a monetary order for unpaid rent or utilities is hereby dismissed.

The landlord's application for an order permitting the landlord to retain the security deposit in partial satisfaction of the claim is hereby dismissed.

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: November 30, 2010.

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Dispute Resolution Officer