



# 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 in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order of Possession - Section 55;
2. A Monetary Order for unpaid rent and utilities- Section 67;
3. An Order to retain the security deposit - Section 38; and
4. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenant were each given full opportunity to be heard, to present evidence and to make submissions.

### Preliminary Matter

At the onset of the Hearing, the Landlord confirmed that only one person is named as a Tenant in the tenancy agreement. Accordingly, the Landlord’s application is amended to remove the name of the person who is not a tenant in the tenancy agreement.

### Issue(s) to be Decided

Is the notice to end tenancy valid?

Is the Landlord entitled to an Order of Possession?

Is the Landlord entitled to the monetary amounts claimed?

### Background and Evidence

The tenancy began on December 1, 2011. Rent in the amount of \$1,150.00 is payable in advance on the first day of each month. At the outset of the tenancy, the Landlord collected a security deposit from the Tenant in the amount of \$575.00. The Tenant

failed to pay rent for the month of February 2012 and on February 6, 2012 the Landlord served the Tenant with a notice to end tenancy for non-payment of rent by posting the Notice on the door. The Tenant has also not paid the rent for March 2012. The Tenant has not filed an Application for Dispute Resolution and has not moved out of the unit. The Tenant states that rent was not paid due to a bug infestation and other problems with the unit that the Landlord has failed to remedy. The Tenant does not dispute responsibility for utilities payment and states that no bill has been provided by the Landlord for utilities to enable the Tenant to pay the utilities. The Landlord confirms that the Tenant has not been provided with the bills for the utilities. The Landlord claims \$2,300.00 for rental arrears and \$100.00 for unpaid utilities. The Landlord requests an Order for Possession with an effective move-out of 1:00 p.m. on March 31, 2012.

#### Analysis

Section 46 of the Act requires that upon receipt of a Notice to End Tenancy for non-payment of rent the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If the tenant does neither of these two things, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice.

Based on the Landlord's evidence I find that the Tenant was served with a notice to end tenancy for non-payment of rent and I find the notice to be valid. The Tenant has not filed an application to dispute the notice and has not paid the outstanding rent. Given these facts, I find that the Landlord is entitled to an **Order of Possession**. I also find that the Landlord has established a monetary claim for **\$2,300.00** in unpaid rent. The Landlord is also entitled to recovery of the \$50 filing fee, for a total entitlement of **\$2,350.00**. Given the undisputed evidence that the Tenant has not been provided with utility bills for payment, I dismiss this part of the Landlord's claim.

Setting the **security deposit** plus interest of **\$575.00** off the award leaves the amount of **\$1,775.00** owing from the Tenant to the Landlord.

The Tenant is at liberty to make an application in relation to any claims against the Landlord.

Conclusion

**I grant** an Order of Possession to the Landlord effective 1:00 p.m. March 31, 2012. The Tenant must be served with this **Order of Possession**. Should the Tenant 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.

**I order** that the Landlord retain the **deposit** and interest of \$575.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the balance due of **\$1,775.00**. If necessary, this order may be filed in the Small Claims Court and enforced as an order of that Court.

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: March 5, 2012.

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Residential Tenancy Branch