



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      O, MNR, MNSD, MND, FF, ERP, RP

### Introduction

This hearing was convened in response to an application by the Tenant and an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

The Tenant applied on February 27, 2012 for:

1. An Order for the Landlord to make repairs to the unit and to make emergency repairs to the unit - Section 32.

The Landlord applied on March 1, 2012 for:

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

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

### Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession?

Is the Landlord entitled to the monetary amounts claimed?

Is the Landlord entitled to recovery of the filing fee?

Is the Tenant entitled to an order for repairs?

### Background and Evidence

The tenancy began on April 1, 2011 on a fixed term to March 31, 2012. At the end of the fixed term, the Tenant is required to move-out of the unit. Rent in the amount of \$1,425.00 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 \$712.50.00. The Landlord states that although discussions took place on February 25, 2012, the Parties did not sign another tenancy agreement and that as the fixed term expires on March 31, 2012, the Landlord is entitled to an Order of Possession.

The Tenant states that on February 25, 2012, the Tenant signed a new tenancy agreement for another year. The Tenant does not recall whether the Landlord also signed the tenancy agreement but states that a box in the tenancy agreement was initialled by both Parties. The Tenant states that following the Tenant's signature, the Landlord asked the Tenant to sign a letter witnessing another tenant damaging the building and told the Tenant that if the Tenant did not sign the letter, there would be no new tenancy agreement. The Tenant states that after the Tenant informed the Landlord that nothing was witnessed, the Landlord became angry and that the Landlord's Witness pressured the Tenant to sign the letter by raising his voice and becoming verbally aggressive. The Tenant states that the Landlord then removed the tenancy agreement. A Witness for the Tenant states that on February 25, 2012, the Landlord's Witness was heard to say in a loud and aggressive voice, "sign it, just sign it".

The Landlord and the Landlord's Witness state that the box initialled by the Parties was a box in the inspection report in relation to repairs to the unit.

The Landlord states that the Tenant has failed to pay the cost of utilities, as provided in the tenancy agreement, for the period July 2011 to February 2012. The Landlord states that no bills for utilities were presented to the Tenant for this period until February 25, 2011. The Landlord claims the amounts of \$658.22 and \$69.22 for unpaid utilities. The Landlord states that the Landlord accepted the Tenant's services in trade for the utilities for the period prior to July 2011.

The Tenant states that the Landlord had agreed that the utility costs for July 2011 to February 2012 would be covered by the Landlord in exchange for work completed by the Tenant for the Landlord and that the Landlord never asked the Tenant to pay for such utilities until after the Parties failed to agree on a new tenancy agreement. The Tenant states that in exchange for the utility costs, the Tenant did the Landlord's hair and nails on a monthly basis and carried out cleaning services. The Landlord denies such an agreement and states that the Tenant was paid for services in relation to the Landlord's hair and nails on three occasions.

The Landlord states that as the Tenant may not leave the unit at the end of the fixed term, the Landlord will suffer a loss of rental income for the month of April 2012 and claims the amount of \$1,425.00.

The Tenant states that since the beginning of the tenancy, the Landlord has failed to fix the sliding patio door and that the door does not close or lock. The Tenant states further that the light fixtures in the unit are not working properly and that light bulbs explode. The Tenant claims an order directing the Landlord to make such repairs. The Landlord states that the sliding door is a problem, door was somewhat repaired in November 2011 and that the door requires further repair but that the Landlord's budget will not allow such repairs until this spring. The Landlord's Witness states that the light bulbs were inspected and nothing was determined to be wrong with the electrical system and that the light bulbs broke due to being screwed in too tightly. The Landlord's Witness states that the light bulbs have been replaced.

### Analysis

Given the conflicting evidence between the Parties in relation to a second tenancy agreement, I find that the Tenant has failed to substantiate, on a balance of probabilities that a second tenancy agreement was entered into between the Parties. As the current tenancy agreement is not disputed, I find that the Tenant is required to vacate the unit at

the end of the fixed term and that the Landlord is entitled to an Order of Possession for that end date of March 31, 2012.

Given the evidence of the Tenant that the Landlord agreed to waive utility costs for the period July 2011 to February 2012 in exchange for work, and considering the evidence of the Landlord that prior utility bills were paid by services rendered and that the Landlord did not for the period July 2011 to February 2012 present any utility bills to the Tenant for payment until February 22, 2012 and following the dispute over the renewal of the tenancy agreement, I find on a balance of probabilities that the Landlord agreed to waive utility costs in exchange for services rendered and that the Landlord has therefore failed to substantiate an entitlement to an award for utility costs.

Given the evidence of the Landlord that the claim for lost rental income has been made in case the Tenant does not move-out of the unit at the end of March 2012, I find that the Landlord has not proven, on a balance of probabilities, a loss and I therefore dismiss this part of the Landlord's application.

Given the undisputed evidence that repairs to the sliding door are required but considering that the tenancy will end on March 31, 2012, I decline to order the Landlord to make repairs to the door. I strongly caution however that the Landlord fix the sliding door for the start of another tenancy. As the Tenant did not dispute that the Landlord replaced the light bulbs, and noting the conflicting evidence of need for further repair to the electrical system, I find that the Tenant has failed to substantiate other repairs to the unit and I dismiss this part of the Tenant's claim.

As the Landlord has been only partially successful with the application, I make no order in relation to recovery of the filing fee.

### 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.

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 14, 2012.

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Residential Tenancy Branch