



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, MNSD, FF

### Introduction

This matter dealt with an application by the Landlord for an Order of Possession and a Monetary Order for unpaid rent, to recover the filing fee for this proceeding and to keep the Tenant's security and pet deposits in partial payment of those amounts.

The Landlord said he served the Tenant with the Application and Notice of Hearing (the "hearing package") by registered mail on February 8, 2012. Based on the evidence of the Landlord, I find that the Tenant was served with the Landlord's hearing package as required by s. 89 of the Act and the hearing proceeded in the Tenant's absence.

At the start of the conference call the Landlord said the Tenant moved out of the rental unit during the first week of February, 2012, so he has possession of the unit. As a result the Landlord said he is withdrawing his request for an Order of Possession.

### Issues(s) to be Decided

1. Are there rent and utilities arrears and if so, how much?
2. Is the Landlord entitled to compensation for unpaid rent and utilities and if so how much?
3. Is the Landlord entitled to keep the Tenant's security and pet deposits?

### Background and Evidence

This tenancy started on August 18, 2011 as a month to month tenancy. Rent was \$1,300.00 per month payable in advance of the 1<sup>st</sup> day of each month. The Tenant paid a security deposit of \$650.00 and a pet deposit of \$650.00 on August 11, 2011.

The Landlord said that the Tenant did not pay \$914.95 of rent for December, 2011 and \$1,300.00 of rent for January, 2012 as well as utilities of \$1,164.00, when it was due and as a result, on January 13, 2012, he registered mailed a 10 day Notice to End Tenancy for Unpaid Rent or Utilities dated January 12, 2012 to the Tenant. The Landlord said the Tenant has unpaid rent for February, 2012 of \$1,300.00 and additional unpaid utilities of \$200.00.

The Landlord said he submitted all the utility bills that the Tenant has not paid and he said he gave the utility bills to the Tenant in November, 2011 and in January, 2012. The Landlord said he requested the Tenant to pay the amounts on the bills.

The Landlord also requested to recover the \$50.00 filing fee for this proceeding.

## Analysis

Section 26 of the Act says a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

Section 46 (6) (b) of the Act says after 30 days and if the tenant is demanded to paid unpaid utilities the unpaid utilities may be treated as unpaid rent.

The Tenant did not have the right under the Act to withhold part or all of the rent for December, 2011, January, 2012, February, 2012 and the unpaid utilities for the time from August, 2011 to January, 2012; therefore I find in favour of the Landlord for the unpaid rent of \$914.95 for December, 2011, \$1,300.00 each for January and February, 2012 and for \$1,364.00 of unpaid utility bills. The Landlord did provide verification of his claim of \$1,364.00 for unpaid utilities and said he made a formal demand for payment of the bills to the Tenant in November, 2011 and in January, 2012.

As the Landlord has been successful in this matter, he is also entitled to recover from the Tenant the \$50.00 filing fee for this proceeding. I order the Landlords pursuant to s. 38(4) and s. 72 of the Act to keep the Tenant's security deposit in partial payment of the rent arrears. The Landlord will receive a monetary order for the balance owing as following:

	Rent arrears:	\$3,514.95	
	Utilities arrears	\$1,364.00	
	Recover filing fee	\$ 50.00	
	Subtotal:		\$ 4,928.95
Less:	Security Deposit	\$ 650.00	
	Pet Deposit	\$ 650.00	
	Subtotal:		\$ 1,300.00
	Balance Owing		\$ 3,628.95



# Dispute Resolution Services

Page: 3

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## Conclusion

A Monetary Order in the amount of \$3,628.95 has been issued to the Landlord. A copy of the Orders must be served on the Tenant: the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia.

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*.

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Dispute Resolution Officer