



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **Decision**

### **Dispute Codes:**

OPR, OPB, MNR, MNSD, FF

### **Introduction**

This hearing dealt with an Application for Dispute Resolution by the landlord for an Order of Possession and a monetary order for rental arrears based on a Ten Day Notice to End Tenancy for Unpaid Rent dated January 15, 2013.

At the outset of the hearing, the landlord advised that the tenant vacated the unit on January 30, 2013. Therefore the request for an Order of Possession is now moot.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained. The participants had an opportunity to submit documentary evidence prior to this hearing, and the evidence has been reviewed. The parties were also permitted to present affirmed oral testimony and to make submissions during the hearing. I have considered all of the evidence and testimony provided.

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

Is the landlord entitled to monetary compensation for rental arrears owed?

### **Background and Evidence**

The landlord testified that the two-year fixed term tenancy began on March 1, 2012 and the current rent is \$2,200.00. A security deposit of \$1,100.00 was paid at the start of the tenancy.

Submitted into evidence was a copy of the 10-Day Notice to End Tenancy for Unpaid Rent, a copy of the fixed-term tenancy agreement, proof of service, copies of receipts and copies of communications.

The landlord testified that the tenant gave verbal notice to move but it wasn't clear exactly when this would occur. The landlord testified that the tenant fell into arrears and only paid \$1,100.00 for rent due on January 1, 2013. The landlord testified that the tenant informed the landlord that the \$1,100.00 security deposit being held on the tenant's behalf should be allocated towards the remainder of rent owed for January

2013. The landlord feels that she is entitled to be compensated the remaining \$1,100.00 still owed for January rent.

The landlord testified that attempts were made to re-rent the unit through advertising. However, no replacement renter was found to take over the unit for February 1, 2013, and the landlord suffered a loss of revenue in the amount of \$2,200.00 as a result. The landlord is seeking compensation for the loss.

The tenant testified that she was never given a copy of her tenancy agreement and, as a result, did not realize that the tenancy was for a two-year period. The tenant testified that she believed that she had given adequate notice as required under the Act.

The tenant testified that she was forced to end her tenancy because she could not afford the rent and there were some other issues that adversely impacted the tenancy. The tenant testified that the landlord was aware of her circumstances. The tenant testified that she paid one-half of the rent for January 2013, in the amount of \$1,100.00 and allocated her \$1,100.00 security deposit to compensate the landlord for the other half of the rent for January.

The tenant testified that, before she moved out, she cooperated when the landlord was trying to find a replacement renter. The tenant also pointed out that she moved out in time for the landlord to re-rent the unit for February 2013.

### **Analysis**

Based on the testimony of the landlord, I find that the tenant was served with a Notice to End Tenancy for Unpaid Rent. I find that the tenant paid half of the rent for January 2013 leaving \$1,100.00 unpaid and the landlord is entitled to be compensated in that amount.

I find that the tenancy agreement was for a fixed term and the tenant failed to honour the agreement by terminating the tenancy before the expiry date shown on the tenancy agreement. March 1, 2014, was the expiry date of the fixed term that had been agreed to by both parties.

In regard to the rent owed for February 2013, based on the testimony from both parties, I find that the landlord did make a reasonable effort to mitigate the losses by advertising for a new renter. Despite this, the landlord still suffered a loss of revenue for the month of February 2013. I find that the landlord is therefore entitled to be compensated in the amount of \$2,200.00.

I find that the landlord is entitled to a monetary award of \$3,350.00 comprised of rental arrears of \$1,100.00, loss of rent for \$2,200.00 and the \$50.00 fee paid by the landlord for this application.

I order that the landlord retain the tenant's security deposit of \$1,100.00 in partial satisfaction of the claim leaving a balance due of \$2,250.00.

I hereby grant the Landlord an order under section 67 for \$2,250.00. This order must be served on the Respondent and may be filed in B.C. Provincial Court (Small Claims) and enforced as an order of that Court.

### **Conclusion**

The landlord was granted a monetary order for rental arrears based on the Ten Day Notice to End Tenancy for Unpaid Rent but there was no need for an Order of Possession as the tenant had vacated prior to the hearing.

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: February 18, 2013

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Residential Tenancy Branch

