



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes:**

OPR, MNR

### **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 - Section 67;

I accept the landlord requests for the security deposit to be offset for any monetary calculation.

I accept the landlord's evidence that despite the tenant having been personally served with the application for dispute resolution and notice of hearing on February 19, 2013, in the presence of a witness, in accordance with Section 89 of the Residential Tenancy Act (the Act) the tenant did not participate in the conference call hearing.

The landlord was given full opportunity to be heard, to present evidence and to make submissions. The landlord testified the tenant still occupies the unit and has not returned the keys.

### **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 July 01, 2012. Rent in the amount of \$900.00 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 \$450.00. The tenant failed to pay all the rent in the month of February – paying only \$675.00, and on February 05, 2013 the landlord served the tenant with a notice to end tenancy for non-payment of rent by posting it on the tenant's door. The landlord testified they also included a quantum of unpaid utilities but that the tenancy agreement states the payable rent includes utilities. The tenant further failed to pay rent in the month of March 2013. The quantum of the landlord's monetary claim is for the unpaid rent in the sum of \$1125.00.

### **Analysis**

Based on the landlord's testimony 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 paid the outstanding rent and has not applied for Dispute Resolution to dispute the notice and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice. Based on the above facts I find that the landlord is entitled to an **Order of Possession**.

I further find that the landlord has established a monetary claim for **\$1125.00** in unpaid rent. With respect to the landlord's claim for utilities, I am not satisfied based on the evidence presented by the landlord that the tenant agreed to pay for extra utilities. That claim is therefore dismissed.

The landlord is also entitled to recovery of the \$50 filing fee, for a total entitlement of **\$1175.00**. **At the landlord's request** the security deposit will be off-set from the award made herein.

### ***Calculation for Monetary Order***

Rental Arrears	\$1125.00
Filing Fees for the cost of this application	50.00
Less Security Deposit and applicable interest <i>to date</i>	-450.00
<b>Total Monetary Award</b>	<b>\$725.00</b>

### **Conclusion**

**I grant** an Order of Possession to the landlord **effective 2 days from the day it is served** on the tenant. 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 of \$450.00 in partial satisfaction of the claim and I grant the landlord an Order under Section 67 of the Act for the balance due of **\$725.00**. If necessary, this Order may be filed in the Small Claims Court and enforced as an Order of that Court.

**This Decision is final and binding on both parties.**

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 13, 2013

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Residential Tenancy Branch

