



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: OPR, MNR, FF

### Introduction

This hearing was scheduled in response to an application by the landlords for an order of possession / a monetary order as compensation for unpaid rent or utilities / and recovery of the filing fee. Both parties attended and gave affirmed testimony.

### Issue(s) to be Decided

Whether the landlords are entitled to the above under the Act, Regulation or tenancy agreement.

### Background and Evidence

Pursuant to a written tenancy agreement, the tenancy began on March 1, 2011. Monthly rent of \$1,200.00 is due and payable in advance on the first day of each month, and a security deposit of \$600.00 was collected. There is no dispute that the tenant is responsible for a 40% share of monthly utilities, while the landlords are responsible for the balance of 60%. This is a different arrangement from the provision set out in the tenancy agreement which calls for a 50 / 50 split of responsibility between the parties.

Arising from rent and utilities which were unpaid when due on February 1, 2013, the landlords issued a 10 day notice to end tenancy for unpaid rent or utilities dated February 24, 2013. The notice was served by posting on the tenant's door on that same date. A copy of the notice was submitted in evidence. Subsequently, the tenant made no payment toward rent or utilities and she continues to reside in the unit. The tenant does not dispute the amount(s) of compensation claimed by the landlords.

### Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: [www.rto.gov.bc.ca](http://www.rto.gov.bc.ca)

Based on the documentary evidence and testimony, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent or utilities dated February 24, 2013. The tenant did not pay the outstanding rent or utilities within 5 days of receiving the notice, and did not apply to dispute the notice. The tenant is therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the notice. Accordingly, I find that the landlords have established entitlement to an **order of possession**.

As for the monetary order, I find the landlords have established a claim of **\$3,979.34**:

\$1,200.00 - <i>unpaid rent February;</i>	\$162.84 - <i>unpaid utilities February</i>
\$1,200.00 - <i>unpaid rent March;</i>	\$166.50 - <i>unpaid utilities March</i>
\$1,200.00 - <i>unpaid rent / loss of rental income April</i>	
\$50.00 - <i>filing fee</i>	

Section 72 of the Act addresses **Director's orders: fees and monetary orders**, and provides in part as follows:

72(2) If the director orders a party to a dispute resolution proceeding to pay any amount to the other, including an amount under subsection (1), the amount may be deducted

(b) in the case of payment from a tenant to a landlord, from any security deposit or pet damage deposit due to the tenant.

Following from all the above, I order that the landlords retain the security deposit of **\$600.00**, and I grant the landlords a **monetary order** under section 67 of the Act for the balance owed of **\$3,379.34** (\$3,979.34 - \$600.00).

### Conclusion

I hereby issue an **order of possession** in favour of the landlords effective not later than **two (2) days** after service on the tenant. This order must be served on the tenant. 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.

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlords in the amount of **\$3,379.34**. Should it be necessary, this order may be served on the tenant, 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: April 03, 2013

---

Residential Tenancy Branch

