



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Confide Enterprises Ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MNR, MNSD, FF

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67;
- authorization to retain all or a portion of the tenants' security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover his filing fee for this application from the tenants pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions and to cross-examine one another. Female Landlord EK testified that she handed the 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) to female Tenant LS on May 3, 2013. Tenant LS's son confirmed that the landlord served the 10 Day Notice to the tenants on May 3, 2013. I am satisfied that the 10 Day Notice has been served to the tenants in accordance with the *Act*.

The landlord entered witnessed documents attesting to the landlord's handling of a copy of the dispute resolution hearing package to Tenant LS and AS on May 23, 2013. Although Tenant LS's son confirmed that he and his mother had received a copy of the landlord's dispute resolution hearing package on May 23, 2013, he testified that the other tenant, Tenant AS, has returned to her native country and has not been in Canada for the past three months. Based on the above testimony, I find that the landlord has served Tenant LS with the dispute resolution hearing package in accordance with the *Act*. I am not satisfied that the landlord has served Tenant AS with a copy of the landlord's hearing package. Consequently, any orders to be issued against the Respondents can only be directed to Tenant LS.

At the commencement of the hearing, Landlord EK and the representative of the current owner of the property, Landlord RS, testified that ownership of this property transferred

from the Landlord as shown in this application to the current landlord on May 28, 2013. I noted that the landlord's application has not been amended to show the change in ownership and, as such, any order that I can grant is limited to the Applicant as shown in the landlord's amended application of May 21, 2013. Landlord EK and RS confirmed that Landlord RS could act on behalf of the landlord identified as the Applicant and vice versa with respect to entering into agreements or taking action for one another as needed for the purpose of the landlord's application and this tenancy. Landlord EK departed from the teleconference during the hearing and agreed that Landlord RS could act on her behalf as he represented the current owners of this property.

#### Issues(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent? Is the landlord entitled to a monetary award for unpaid rent? Is the landlord entitled to retain all or a portion of the tenants' security deposit in partial satisfaction of the monetary award requested? Is the landlord entitled to recover the filing fee for this application from the tenants?

#### Background and Evidence

Although the tenants moved into this rental unit in October 2011, the most recent residential tenancy agreement between the Applicant and the tenants was for a fixed term tenancy running from June 13, 2012 until March 31, 2013. The tenancy has continued as a periodic tenancy. Monthly rent is currently \$755.00, payable in advance on the first of each month. The landlords continue to hold a \$377.50 security deposit for this tenancy paid on or about October 18, 2011.

The landlord's 10 Day Notice identified \$1,132.50 as owing as of May 3, 2013. Landlord EK and RS both testified that their companies have not received any rental payments from either the tenants or the Ministry of Social Development (the Ministry) on the tenants' behalf since the landlord issued the 10 Day Notice. The landlord amended the original application for a monetary award of \$1,132.50 to \$1,887.50, to reflect the tenants' failure to pay rent for June 2013. The landlord provided written evidence that the tenants had not paid \$377.50 of their April 2013 rent, \$755.00 for May 2013 and \$755.00 for June 2013.

Although the tenants maintained that the Ministry had paid \$375.00 and \$372.00 for June 2013 welfare benefits for this tenancy, they did not dispute the landlord's claim that they failed to pay all of the rent identified as owing in the landlord's 10 Day Notice. The landlords testified that they have not received any payments from the Ministry towards this tenancy for June 2013.

### Analysis

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During the hearing, the parties discussed the issues between them, engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

Both parties agreed to resolve issues in dispute arising out of this tenancy under the following final and binding terms:

1. The tenant agreed to pay the new landlord, HI Inc., a total of \$850.00 by cash or certified cheque for outstanding rent by 5:00 p.m. on June 14, 2013.
2. The landlord and HI Inc. agreed that if the tenants abide by the monetary terms of this settlement agreement as outlined above, the landlords will not pursue any other outstanding rent owing from this tenancy and the next scheduled rent due will be on July 1, 2013, in accordance with the residential tenancy agreement.
3. The landlord and HI Inc., agreed to withdraw the 10 Day Notice issued on May 3, 2013 if the tenants abide by the monetary terms of this settlement agreement as outlined above. In that event, this tenancy would continue.
4. Both parties agreed that this tenancy will end within two days of any failure by the tenants to abide by the monetary terms of this settlement agreement, and the tenants will vacate the premises accordingly.
5. Both parties agreed that this settlement agreement constituted a final and binding resolution of all issues in dispute between the parties at this time.

### Conclusion

To give effect to the settlement reached between the parties and as discussed at the hearing, I issue the attached Order of Possession to be used by the landlord **only** if the tenant(s) do not comply with the monetary terms of their agreement **and** fail to vacate the rental premises in accordance with their agreement. The landlord is provided with these Orders in the above terms and the tenant(s) must be served with this Order in the event that the tenant(s) do not vacate the premises in accordance with their agreement. Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

In order to implement the above settlement reached between the parties, I issue a monetary Order in the landlord's favour in the amount of \$850.00 against Tenant LS, the only tenant who has been served with the landlord's application for dispute resolution. I deliver this Order to the landlord in support of the above agreement for use **only** in the event that the tenant does not abide by the terms of the above settlement. The landlord is provided with these Orders in the above terms and Tenant LS must be

served with a copy of these Orders as soon as possible after a failure to comply with the terms of the above settlement agreement. Should Tenant LS fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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: June 14, 2013

---

Residential Tenancy Branch

