



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, OPC, 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 and utilities, to recover the filing fee for this proceeding and to keep the Tenant's security and pet deposit in 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 June 19, 2013. 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.

### Issues(s) to be Decided

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

### Background and Evidence

This tenancy started on May 15, 2012 as a month to month tenancy. Rent is \$1,200.00 per month payable in advance of the 1<sup>st</sup> day of each month. The Tenant paid a security deposit of \$600.00 on May 15, 2012 and a pet deposit of \$600.00 in June, 2013.

The Landlord said that the Tenant did not pay \$901.57 in rent and utilities for June, 2013 when it was due and as a result, on June 2, 2013 he posted a 10 day Notice to End Tenancy for Unpaid Rent or Utilities dated June 2, 2013 in the door slot of the Tenant's rental unit. The Landlord said the Tenant has paid \$260.00 on June 17, 2013, but is still in arrears \$600.00 in rent and \$41.57 in unpaid utilities for May, 2013.

The Landlord further indicated that the Tenant is living at the rental unit and the Landlord said he would like to end the tenancy as soon as possible as the Tenant does not pay the rent and utilities on time. The Landlord requested an Order of Possession for as soon as possible.

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

### Analysis

Section 46(4) of the Act states that **within 5 days of receiving** a Notice to End Tenancy for Unpaid Rent or Utilities, a Tenant must pay the overdue rent or apply for dispute resolution. If the Tenant fails to do either of these things, then under section 46(5) of the Act, they are conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice and they must vacate the rental unit at that time.

Under s. 90 of the Act, the Tenant is deemed to have received the Notice to End Tenancy 3 days after it was posted, or on June 5, 2013. Consequently, the Tenant would have had to pay the amount stated on the Notice or apply to dispute that amount no later than June 10, 2013.

I find that the Tenant has not paid the overdue rent and has not applied for dispute resolution. Consequently, I find pursuant to s. 55(2)(b) of the Act that the Landlord is entitled to an Order of Possession to take effect 48 hours after service of it on the Tenant.

I also find that the Landlord is entitled to recover unpaid rent for June, 2013, in the amount of \$600.00 and unpaid utilities in the amount of \$41.57.

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 Landlord pursuant to s. 38(4) and s. 72 of the Act to keep the Tenant's security deposit in the amount of \$600.00 and a portion of the Tenant's pet deposit in the amount of \$91.57 as full payment of the Landlord's claims.

Owing to Landlord	Rent arrears:	\$600.00	
	Unpaid utilities:	\$ 41.57	
	Recover filing fee	\$ 50.00	
	Subtotal:		\$691.57
Less:	Security Deposit	\$600.00	
	Portion of Pet Deposit	\$ 91.57	
	Subtotal:		\$691.57
	Balance Owing		\$ 0.00

Further the Landlord will handle the balance of the Tenant's pet deposit in the amount of \$508.43 in compliance with the Act.

### Conclusion

An Order of Possession effective 2 days after service of it on the Tenant has been issued to the Landlord. A copy of the Order must be served on the Tenant: the Order of Possession may be enforced in the Supreme Court of British Columbia.

I order the Landlord to retain the security deposit of \$600.00 and \$91.57 of the Tenant's pet deposit as full satisfaction of the Landlord's application and claims.

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: July 17, 2013

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Residential Tenancy Branch

