



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Lighthouse Realty Ltd  
and [tenant name suppressed to protect privacy]

## **DECISION**

### **Dispute Codes:**

**OPR, MNR, MNSD, FF**

### **Introduction**

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has requested an Order of possession for unpaid rent, a monetary Order for unpaid rent, to retain the security deposit and to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

The agent for the landlord provided affirmed testimony that April 28, 2014 copies of the Application for Dispute Resolution and Notice of Hearing were sent to the tenant via registered mail at the address noted on the Application. A Canada Post tracking number and receipt was provided as evidence of service. The tenant was in the unit until at least the 1<sup>st</sup> week of May, 2014.

These documents are deemed to have been served in accordance with section 89 and 90 of the Act; however the tenant did not appear at the hearing.

### **Preliminary Matters**

The landlord withdrew the request for an Order of possession as the tenant has vacated the unit.

The landlord reduced the monetary claim for May; requesting compensation for the 1<sup>st</sup> week of the month only.

The application indicated the Notice ending tenancy was given in April; it was in fact given in March.

The application indicates a claim for rent beyond the effective date of the Notice; therefore consideration of a loss of rent revenue will be considered.

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

Is the landlord entitled to a monetary Order?

May the landlord retain the security deposit paid by the tenant?

### Background and Evidence

The tenancy commenced on November 1, 2012. Rent was \$1,100.00 per month, due on the 1<sup>st</sup> day of each month.

On March 7, 2014 a 10 day Notice ending tenancy for unpaid rent or utilities, which had an effective date of March 17, 2014 was personally served to an adult who resides with the tenant; the tenant's girlfriend. The girlfriend signed the Notice, confirming receipt. The landlord said that they last saw the tenant's girlfriend at the unit during the first week of May 2014.

On March 22, 2014 the tenant paid \$1,040.00; a receipt for use and occupancy was issued.

The landlord has claimed compensation for unpaid April rent in the sum of \$1,100.00 and the first 10 days of May which is calculated on a daily rate of \$36.16.

A tenant ledger supplied as evidence indicated that rent was not paid in April or May, 2014.

### Analysis

In the absence of evidence to the contrary, I find that the tenant was served with a Notice ending tenancy that required the tenant to vacate the rental unit on March 17, 2014, pursuant to section 46 of the Act.

Section 46 of the Act stipulates that a tenant has 5 days from the date of receiving the Notice ending tenancy to either pay the outstanding rent or to file an Application for Dispute Resolution to dispute the Notice. In the circumstances before me I have no evidence that the tenant exercised either of these rights; therefore, pursuant to section 46(5) of the Act, I find that the tenant accepted that the tenancy has ended on the effective date of the Notice; March 17, 2014.

The tenant paid rent for March 2014 and over held in the unit until at least the end of the 1<sup>st</sup> week of May 2014. Therefore, in the absence of evidence to the contrary, I find that the landlord is entitled to loss of rent revenue from April 1 to May 10, 2014, inclusive in the sum of \$1,461.60 for April and May, 2014 (\$1,100.00 + 361.60.)

I find that the landlord's application has merit and, pursuant to section 72 of the Act that the landlord is entitled to recover the \$50.00 filing fee from the tenant for the cost of this Application for Dispute Resolution.

Pursuant to section 72 of the Act, I find that the landlord is entitled to retain the \$550.00 security deposit in partial satisfaction of the claim.

Based on these determinations I grant the landlord a monetary Order for the balance of \$961.60. In the event that the tenant does not comply with this Order, it may be served on the tenant, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

### Conclusion

The landlord is entitled to a monetary Order for loss of rent revenue.

The landlord may retain the security deposit.

The landlord is entitled to filing fee costs.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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 13, 2014

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Residential Tenancy Branch

