



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes**

For the tenant: CNR, LAT, LRE

For the landlord: OPR, MNR, MNSD, MNDC, FF

### **Introduction**

This hearing was convened as a result of the cross applications of the parties for dispute resolution under the Residential Tenancy Act (the "Act").

The tenant applied for an order cancelling a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice"), for an order authorizing the tenant to change the locks to the rental unit, and for an order suspending or setting conditions on the landlord's right to enter the rental unit.

The landlord applied for an order of possession for the rental unit due to unpaid rent, a monetary order for money owed or compensation for damage or loss and unpaid rent, for authority to retain the tenant's security deposit, and for recovery of the filing fee.

The landlord and his agent attended the hearing; the tenant did not attend.

The landlord submitted documentary evidence containing the registered mail receipt with tracking number and the tracking history showing that the tenant was served with their Application for Dispute Resolution and Notice of Hearing by registered mail on June 23, 2014, to the rental unit address.

Based upon the submissions of the landlord, I find the tenant was served notice of the landlords' hearing and the landlords' application as required by section 89(1) of the Act and the hearing proceeded on the landlords' application in the tenant's absence.

Thereafter the landlords were provided the opportunity to present their evidence orally, refer to documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed the oral and written evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

*Procedural matter*-Despite having her own application for dispute resolution set for hearing on this date and time, the application of the landlord and the Notices of these Hearings, the tenant did not appear.

Therefore, pursuant to section 10.1 of the Rules, I dismiss the application of the tenant, without leave to reapply.

#### Issue(s) to be Decided

Is the landlord entitled to an order of possession for the rental unit, to authority to retain the tenant's security deposit, further monetary compensation, and to recover the filing fee?

#### Background and Evidence

The landlords supplied evidence showing that this tenancy began on September 30, 2013, that monthly rent is \$700, and that the tenant paid a security deposit of \$350 at the beginning of the tenancy, on or about September 20, 2013.

The landlord gave evidence that on May 22, 2014, they served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, by leaving it personally with the tenant, listing unpaid rent of \$700 as of May 1, 2014. The effective vacancy date listed on the Notice was May 31, 2014.

A 10 Day Notice to end the tenancy is not effective earlier than 10 days after the date the tenant receives the notice. Section 53 of the Act allows the effective date of a Notice to be changed to the earliest date upon which the Notice complies with the Act; therefore, I find that the Notice effective date, May 31, 2014 is changed to June 1, 2014.

The Notice informed the tenant that the Notice would be cancelled if the rent was paid within five days. The Notice also explained that alternatively the tenant had five days to dispute the Notice by making an application for dispute resolution.

The tenant did file her application to dispute the Notice within 5 days of receiving it; however, the tenant has failed to appear at the scheduled hearing set to consider her application.

The landlord supplied evidence that since the Notice was issued to the tenant, there have been no further rent payments received, and as of the date of the hearing, the tenant owed a rent deficiency of \$2100, for May, June, and July of \$700 each month, the monetary claim listed on their application.

### Analysis

I find the landlord submitted sufficient evidence that the tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, did not pay the outstanding rent within 5 days of receiving the Notice and did not vacate the rental unit. Additionally the tenant did not appear at the hearing in support of her own application. I find 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.

I therefore find that the landlord is entitled to an order of possession for the rental unit effective two days after service of the order upon the tenant.

I also find that the landlord submitted sufficient evidence that the tenant owes total unpaid rent through the month of July 2014, due to remaining in the rental unit through the midpoint of July, in the amount of \$2100.

I also grant the landlord recovery of their filing fee of \$50.

I therefore find that the landlord is entitled to a monetary award in the amount of \$2150, comprised of outstanding rent of \$2100 through July 2014, and the \$50 filing fee paid by the landlord for this application.

### Conclusion

The landlord's application has been granted.

I grant the landlord a final, legally binding order of possession for the rental unit, which is enclosed with the landlord's Decision. Should the tenant fail to vacate the rental unit pursuant to the terms of the order after it has been served upon her, this order may be filed in the Supreme Court of British Columbia for enforcement as an order of that Court. The tenant is advised that costs of such enforcement are recoverable from the tenant.

At the landlord's request, I allow the landlord to retain the tenant's security deposit of \$350 in partial satisfaction of his monetary award of \$2150 and I grant the landlord a

final, legally binding monetary order for the balance due pursuant to section 67 of the Act for the amount of \$1800, which I have enclosed with the landlord's Decision.

Should the tenant fail to pay the landlords this amount without delay after the order has been served upon him, the order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an order of that Court. The tenant is advised that costs of such enforcement are recoverable from the tenant.

The tenant's application is dismissed due to her failure to attend the hearing and as I have granted the landlord's application.

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 16, 2014

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Residential Tenancy Branch

