



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Dispute Codes:

OPR, MNR, MNSD, FF, O

### Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for an Order of Possession for Unpaid Rent, a monetary Order for unpaid rent, to retain all or part of the security deposit, for "other", and to recover the fee for filing this Application for Dispute Resolution.

Both parties were represented at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, to present relevant oral evidence, to ask relevant questions, and to make relevant submissions.

On September 04, 2014 the Landlord submitted numerous documents to the Residential Tenancy Branch, which the Landlord wishes to rely upon as evidence. The Landlord stated that these documents were posted on the Tenant's door on September 04, 2014. The Tenant acknowledged receipt of these documents and they were accepted as evidence for these proceedings.

On October 07, 2014 the Landlord submitted additional documents to the Residential Tenancy Branch, which the Landlord wishes to rely upon as evidence. The Landlord stated that these documents were posted on the Tenant's door on October 07, 2014. The Tenant stated that she did not receive these documents as she was no longer living at the rental unit on that date. As the documents were not served to the Tenant's current address, they were not accepted as evidence for these proceedings.

On October 09, 2014 the Tenant submitted numerous documents to the Residential Tenancy Branch, which the Tenant wishes to rely upon as evidence. The Tenant stated that these documents were placed in the Landlord's mail box on October 17, 2014. The Landlord acknowledged receipt of these documents and they were accepted as evidence for these proceedings.

Neither party was permitted to testify regarding problems with this tenancy that are not relevant to the issues in dispute at these proceedings.

### Preliminary Matters

With the consent of both parties the Application for Dispute Resolution was amended to reflect the correct spelling of the Tenant's name.

### Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession; to a monetary Order for unpaid rent; and to keep all or part of the security deposit?

### Background and Evidence

The Landlord and the Tenant agree that this tenancy began on May 01, 2014; that the Tenant was required to pay monthly rent of \$860.00 by the first day of each month; that the written tenancy agreement required the Tenant to pay an additional \$100.00 per month in rent if a second person occupied the rental unit; and that the Tenant paid a security deposit of \$430.00.

The Landlord and the Tenant agree that rent was not paid for August until the middle of August, at which time the Tenant gave the Landlord a cheque that was dated August 17, 2014. The parties agree that on September 15, 2014 rent was paid for September.

The Landlord and the Tenant agree that a Ten Day Notice to End Tenancy for Unpaid Rent, which had an effective date of August 12, 2014, was posted on the door of the rental unit. The Landlord stated that it was posted on August 02, 2014. The Tenant cannot recall when it was received. The Tenant stated that she did not dispute this Notice to End Tenancy.

The Landlord and the Tenant agree that a One Month Notice to End Tenancy for Cause, which had an effective date of September 30, 2014, was posted on the door of the rental unit. The Landlord stated that it was posted on August 26, 2014. The Tenant cannot recall when it was received. The Tenant stated that she did not dispute this Notice to End Tenancy.

The Tenant stated that she vacated the rental unit on September 30, 2014 on the basis of the One Month Notice to End Tenancy. She stated that she left some property in the rental unit as it was infested with bedbugs.

The Landlord and the Tenant agree that keys to the rental unit were not returned to the Landlord. The Tenant stated that the keys were not returned because she lost them.

The Landlord stated that the Tenant did not inform him that she had vacated the rental unit. He stated that he entered the unit in early October of 2014 and found personal

property inside the rental unit. He stated that he did not believe he could take possession of the rental unit because he was not certain the Tenant had vacated the unit. He is seeking compensation for lost revenue for October and November of 2014, as he was unable to confirm that the Tenant had vacated the unit.

### Analysis

On the basis of the undisputed evidence, I find that the Tenant entered into a tenancy agreement with the Landlord that required the Tenant to pay monthly rent of \$860.00 by the first day of each month if one person occupied the rental unit and that it required the Tenant to pay monthly rent of \$960.00 by the first day of each month if two people occupied the rental unit. Section 26(1) of the *Act* requires tenants to pay rent to their landlord when it is due.

On the basis of the undisputed evidence, I find that the Tenant did not pay rent for August until August 17, 2014.

If rent is not paid when it is due, section 46(1) of the *Act* entitles landlords to end the tenancy within 10 days, by providing proper written notice. On the basis of the undisputed evidence, I find that the Ten Day Notice to End Tenancy, served pursuant to section 46 of the *Act*, was posted at the rental unit on August 02, 2014.

Section 90 of the *Act* stipulates that a document that is posted on a door is deemed to be received on the third day after it is posted. I therefore find that the Tenant received the Notice to End Tenancy on August 05, 2014.

Section 46(1) of the *Act* stipulates that a 10 Day Notice to End Tenancy is effective ten days after the date that the tenant receives the Notice. As the Tenant is deemed to have received this Notice on August 05, 2014, I find that the earliest effective date of the Notice was August 15, 2014.

Section 53 of the *Act* stipulates that if the effective date stated in a Notice is earlier than the earliest date permitted under the legislation, the effective date is deemed to be the earliest date that complies with the legislation. Therefore, I find that the effective date of this Notice to End Tenancy was August 15, 2014.

Section 46 of the *Act* stipulates that a Tenant has five (5) days from the date of receiving the Notice to End Tenancy to either pay the outstanding rent or to file an Application for Dispute Resolution to dispute the Notice. As there is no evidence that the Tenant exercised either of these rights, I find that the Tenant accepted that the tenancy ended on August 15, 2014, pursuant to section 46(5) of the *Act*.

On the basis of the testimony of the Tenant and in the absence of evidence to the contrary, I find that the Tenant vacated the rental unit on September 30, 2014, although she abandoned some of her property in the rental unit. On the basis of the Tenant's testimony that she has vacated the rental unit and abandoned her property, I find that

the Landlord now has legal possession of the rental unit. I therefore find that the Landlord does not need an Order of Possession and I dismiss the application for that Order.

The Landlord filed a claim for unpaid rent on September 02, 2014, at which time September rent had not been paid. As the rent for September has since been paid, I dismiss the Landlord's claim for unpaid rent. As the Tenant vacated the unit on September 30, 2014, I find that she is not obligated to pay rent after that date.

Although a landlord is entitled to seek compensation for lost revenue if a tenant does not vacate a rental unit after the tenancy ends, the landlord must properly inform the tenant of his/her intent to seek compensation of that nature. As the Landlord did not make a claim for money owed or compensation for damage or loss and there is nothing in the "details of dispute" that would indicate the Landlord is seeking compensation for lost revenue from October and November, I decline to consider the Landlord's application for lost revenue. In my view, the lack of notice regarding claim for lost revenue makes it difficult, if not impossible, to prepare a response to the claim.

I find that the Landlord's application had merit at the time it was filed and that the Landlord is entitled to recover the cost of filing this Application for Dispute Resolution.

### Conclusion

The Landlord has established a monetary claim, in the amount of \$50.00, in compensation for cost of filing this Application for Dispute Resolution and I grant the Landlord a monetary Order for this amount. 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.

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: October 23, 2014

---

Residential Tenancy Branch

