



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 0900250 BC LTD  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MND, MNR, MNSD, FF

### Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution (the “Application”) made by the Landlord for an Order of Possession and a Monetary Order for unpaid rent. The Landlord also applied for a Monetary Order for damage to the rental suite, to retain the Tenant’s security deposit, and to recover the filing fee.

An agent for the Landlord (the “Landlord”) appeared for the hearing and provided affirmed testimony as well as written evidence prior to the hearing. The Landlord testified that she served the Tenant personally with a copy of the Application and the Notice of Hearing documents on October 14, 2014. There was no appearance by the Tenant during the 30 minute duration of the hearing and there was no submission of written evidence by the Tenant prior to this hearing.

Based on the oral testimony of the Landlord, and in the absence of any evidence from the Tenant to dispute this, I find that the Landlord served the Tenant with the required documents for this hearing in accordance with Section 89(1) (a) of the *Residential Tenancy Act* (the “Act”).

### Preliminary Issues

The Landlord explained that since the time of making this Application, she had discovered that the Tenant had put the utilities for this rental suite in her name but that the last name was different to the name provided by the Tenant. Therefore, I granted the Landlord’s request to amend her Application, pursuant to Section 64(3) (c) of the Act, to include the alias named of the Tenant for enforcement purposes.

The Landlord also explained that the Tenant had vacated the rental suite and therefore she did not require an Order of Possession which is hereby dismissed accordingly.

The Landlord did not provide evidence relating to damages to the rental unit and her Application was only in relation to unpaid rent. Therefore, the Landlord's Application for damages to the rental unit is dismissed.

The Landlord testified that the Tenant had also failed to pay rent for the month of November, 2014 and as a result, I allowed the Landlord to amend her Application to increase her monetary claim for unpaid rent to \$3,000.00.

The Landlord explained that there were also unpaid utilities by the Tenant. However, I determined that the Landlord had not put the Tenant on sufficient notice of the utilities being claimed and failed to provide sufficient evidence relating to this claim. As a result, the Landlord is at liberty to make another Application to claim for unpaid utilities.

The hearing continued to hear the Landlord's undisputed evidence for her monetary claim for unpaid rent which I have carefully considered as follows.

#### Issue(s) to be Decided

- Is the Landlord entitled to a Monetary Order for the rental arrears?
- Is the Landlord entitled to keep all of the Tenant's security deposit in partial satisfaction of the Landlord's monetary claim for unpaid rent?

#### Background and Evidence

The Landlord testified that this month to month tenancy began on November 1, 2013. Rent between the parties was established in the amount of \$1,000.00 per month, payable by the Tenant on the first day of each month. The Landlord testified that the Tenant paid a \$500.00 security deposit at the start of the tenancy which the Landlord still retains.

The Landlord testified that the Tenant had failed to pay full rent on September 1, 2014 in the amount of \$1,000.00. As a result, the Tenant was personally served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice") on October 1, 2014.

The Notice, which was provided in written evidence, is dated October 1, 2014 and indicates that the Tenant failed to pay rent in the amount of \$1,000.00 due on September 1, 2014. The Landlord further testified that the Tenant had also failed to pay rent for October and November, 2014 bringing the total rental arrears to \$3,000.00. The Landlord testified that another agent of the Landlord named on the Application bumped

into the Tenant on November 4, 2014 and a conversation ensued between them about the unpaid rent.

The Landlord explained that during this conversation the Tenant explained that she had moved out of the rental suite and gave the agent \$1,500.00 towards the rent, leaving an outstanding balance of \$1,500.00 which the Landlord now seeks to recover.

### Analysis

Section 26(1) of the Act requires a Tenant to pay rent when it is due under a tenancy agreement. Based on the Landlord's oral and written evidence above, including the Notice, I accept the evidence that the Tenant has failed to pay rent to the Landlord in the amount of \$1,500.00 and the Landlord is awarded this amount accordingly.

As the Landlord has been successful in this matter, the Landlord is entitled to recover the **\$50.00** filing fee pursuant to Section 72(1) of the Act. Therefore, the total amount payable by the Tenant to the Landlord is \$1,550.00.

As the Landlord already holds the Tenant's security deposit of \$500.00, and no interest is payable on this amount, I order the Landlord to retain this amount in partial satisfaction of the claim awarded, pursuant to Section 38(4) (b) of the Act. As a result, the Landlord is awarded \$1,050.00.

### Conclusion

For the reasons set out above, I grant the Landlord a Monetary Order pursuant to Section 67 of the Act in the amount of **\$1,050.00**. This order must be served on the Tenant and may then be enforced in the Provincial Court (Small Claims) 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: November 24, 2014

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Residential Tenancy Branch

