



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding TINKER REALTY INC.  
and [tenant name suppressed to protect privacy]

## **DECISION**

### Dispute Codes:

MNR, MNSD, MNDC, FF

### Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for a monetary Order for unpaid rent, a monetary Order for money owed or compensation for damage or loss, to retain all or part of the security deposit, and to recover the fee for filing this Application for Dispute Resolution.

The Agent for the Landlord stated that on July 31, 2014 she personally served the Application for Dispute Resolution, the Notice of Hearing, and a second copy of the Ten Day Notice to End Tenancy to the Tenant. In the absence of evidence to the contrary, I find that these documents have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*; however the Tenant did not appear at the hearing.

### Issue(s) to be Decided

Is the Landlord entitled to a monetary Order for unpaid rent/lost revenue and to keep all or part of the security deposit?

### Background and Evidence

The Agent for the Landlord stated that this tenancy began on February 01, 2014; that the Tenant entered into a written tenancy agreement which required her to pay monthly rent of \$550.00 by the first day of each month; and that the Tenant paid a security deposit of \$275.00.

The Agent for the Landlord stated that the Tenant only paid \$150.00 in rent for May and that no rent was paid for June or July of 2014.

The Agent for the Landlord stated that on June 06, 2014 she personally served the Tenant with a Ten Day Notice to End Tenancy, which declared that the Tenant must vacate the rental unit by June 13, 2014.

The Agent for the Landlord stated that she is not certain when the Tenant stopped living in the rental unit, although she believes it was sometime near the middle of July of 2014, at which time the Tenant moved because her washing machine flooded the unit. The Agent for the Landlord stated that the Tenant left many personal belongings in the rental unit, which were not removed until after July 31, 2014.

### 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 \$550.00 by the first day of each month. 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 still owes \$950.00 in rent for May of 2014 and June of 2014. As the Tenant is required to pay rent pursuant to section 26(1) of the *Act*, I find that the Tenant must pay \$950.00 in outstanding rent to the Landlord.

On the basis of the undisputed evidence, I find that a Ten Day Notice to End Tenancy was personally served to the Tenant on June 06, 2014, which declared that the Tenant must vacate the unit by June 13, 2014. Section 46(1) of the *Act* stipulates that a Ten Day Notice to End Tenancy is effective ten days after the date that the tenant receives the Notice. As the Tenant received this Notice on June 06, 2014, I find that the earliest effective date of the Notice was June 16, 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 June 16, 2014.

Section 46 of the *Act* stipulates that a Tenant has five 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. In the circumstances before me I have no evidence that the Tenant exercised either of these rights and, pursuant to section 46(5) of the *Act*, I find that the Tenant accepted that the tenancy ended on June 16, 2014.

As the Tenant did not vacate the rental unit on June 16, 2014, I find that the Tenant is obligated to pay rent, on a per diem basis, for the days the Tenant remained in possession of the rental unit in July of 2014.

I find that the Tenant fundamentally breached the tenancy agreement when she did not pay rent when it was due. I find that the Tenant fundamentally breached section 46(5) of the *Act* when the Tenant did not vacate the rental unit by the effective date of the Ten Day Notice to End Tenancy. I find that her failure to vacate the rental unit prior to the end of June made it difficult, if not impossible, for the Landlord to find new tenants for July of 2014.

I therefore find that the Tenant must compensate the Landlord for per diem rent and/or lost revenue for July of 2014, in the amount of \$550.00.

I find that the Landlord's application has merit 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 \$1,550.00, which is comprised of \$1,500.00 in unpaid rent/lost revenue and \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution. Pursuant to section 72(2) of the *Act*, I authorize the Landlord to keep the Tenant's security deposit of \$275.00, in partial satisfaction of the monetary claim.

Based on these determinations I grant the Landlord a monetary Order for the balance of \$1,275.00. 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: January 22, 2015

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Residential Tenancy Branch

