



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, MNSD, MNDC, FF

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession for unpaid rent, pursuant to section 55;
- a monetary order for unpaid rent, pursuant to section 67;
- a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested, pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenant, pursuant to section 72.

The tenant did not attend this hearing although it lasted approximately 15 minutes. The landlord's agent, SA ("landlord") attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord's agent confirmed that she appears on behalf of VES, a company representing the landlord. The landlord's application provided an authorization letter, dated November 7, 2014, from VES, to confirm this agency.

The landlord gave sworn testimony that she served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent, dated November 7, 2014 ("10 Day Notice"), by posting it to the tenant's rental unit door on the same date. In accordance with sections 88 and 90 of the *Act*, I find that the tenant was deemed served with the 10 Day Notice on November 10, 2014, three days after its posting.

The landlord testified that she served the tenant with the Application for Dispute Resolution hearing package ("Application") on December 4, 2014, by way of registered

mail. She provided a Canada Post receipt and tracking number, as proof of service, with her Application. The landlord testified that she checked the tracking number on the day of this hearing and the Canada Post website indicated that as of December 31, 2014, the package was being returned to its sender. In accordance with sections 89 and 90 of the *Act*, I find that the tenant was deemed served with the Application on December 9, 2014, five days after its registered mailing.

### Issues to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent?

Is the landlord entitled to a monetary award for unpaid rent?

Is the landlord entitled to a monetary award for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement?

Is the landlord entitled to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary award requested?

Is the landlord entitled to recover the filing fee for this application from the tenant?

### Background and Evidence

The landlord testified that this periodic tenancy began on June 22, 2014. Monthly rent in the amount of \$1,600.00 is payable on the 22<sup>nd</sup> day of each month. A security deposit of \$800.00 was paid by the tenant on June 22, 2014 and the landlord continues to retain this deposit. A partial two-page written tenancy agreement was provided with the landlord's Application. The landlord testified that the tenant continues to reside in the rental unit.

The landlord stated that rent in the amount of \$1,000.00 is unpaid for July 2014. The landlord testified that rent in the amount of \$1,600.00 is unpaid for each of August, September, October, November and December 2014. The landlord seeks a monetary order in the amount of \$9,000.00 for unpaid rent, as indicated above. The landlord testified that she was not seeking to recover any unpaid rent for January 2015.

The landlord issued the 10 Day Notice, indicating that rent in the amount of \$5,800.00 was due on October 22, 2014. The landlord testified that this amount includes unpaid rent of \$1,000.00 for July 2014 and unpaid rent of \$1,600.00 from August to October

2014, inclusive. The notice indicates an effective move-out date of November 17, 2014. The landlord confirmed that no rent payments have been received from the tenant since the 10 Day Notice was served upon him.

The landlord is seeking to retain the tenant's security deposit of \$800.00, which the landlord continues to hold.

The landlord is also seeking to recover the filing fee of \$100.00 for this Application from the tenant, which she confirms was paid by the landlord.

### Analysis

The landlord provided undisputed evidence at this hearing, as the tenant did not appear. The tenant failed to pay the full rent due on October 22, 2014, within five days of being deemed to have received the 10 Day Notice. No partial payments have been made by the tenant. The tenant has not made an application pursuant to section 46(4) of the *Act* within five days of being deemed to have received the 10 Day Notice. In accordance with section 46(5) of the *Act*, the failure of the tenant to take either of these actions within five days led to the end of this tenancy on November 20, 2014, the corrected effective date on the 10 Day Notice. In this case, this required the tenant and anyone on the premises to vacate the premises by November 20, 2014. As this has not occurred, I find that the landlord is entitled to a 2 day Order of Possession.

The landlord provided undisputed evidence that the tenant failed to pay \$9,000.00 in rent from July to December 2014, inclusive. Therefore, I find that the landlord is entitled to rental arrears outstanding in the amount of \$9,000.00 against the tenant.

The landlord testified that she continues to hold the tenant's security deposit of \$800.00. In accordance with the offsetting provisions of section 72 of the *Act*, I allow the landlord to retain the tenant's security deposit in partial satisfaction of the monetary award. No interest is payable over this period.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee paid for the Application.

### Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant. Should the tenant or anyone on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I issue a monetary order in the landlord's favour in the amount of \$8,300.00 against the tenant as follows:

Item	Amount
July 2014 Rent	\$1,000.00
August 2014 Rent	1,600.00
September 2014 Rent	1,600.00
October 2014 Rent	1,600.00
November 2014 Rent	1,600.00
December 2014 Rent	1,600.00
Less Security Deposit	-800.00
Recovery of Filing Fee for this application	100.00
<b>Total Monetary Award</b>	<b>\$8,300.00</b>

The landlord is provided with a monetary order in the amount of \$8,300.00 in the above terms and the tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial 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 02, 2015

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Residential Tenancy Branch

