



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding HOLLYBURN ESTATES LTD  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes: MNR OPR MNSD FF

### **Introduction:**

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for orders as follows:

- a) A monetary order pursuant to Section 67;
- b) An Order of Possession pursuant to Sections 46, and 55;
- c) To retain the security deposit to offset the amount owing; and
- d) An order to recover the filing fee pursuant to Section 72.

### **SERVICE:**

The tenant did not attend. The landlord gave sworn testimony that the Notice to end Tenancy dated December 8, 2014 was served by posting it on the tenant's door and the Application for Dispute Resolution by registered mail. It was verified online that the postal service attempted delivery on December 31, 2014 and issued several notices that it was available but it had not been picked up as of January 7, 2015. I find that the tenant is deemed to be served with the Application/Notice of Hearing pursuant to sections 88 and 89 of the Act.

### **Issue(s) to be Decided:**

The tenant was issued a Notice to End Tenancy dated December 8, 2014 for unpaid rent. Is the landlord now entitled to an Order of Possession and to a Monetary Order for rental arrears and filing fee?

### **Background and Evidence:**

The tenant did not attend although deemed to be served with the Application/Notice of Hearing. The landlord was given opportunity to be heard, to present evidence and to make submissions. The landlord testified that tenancy commenced on December 1, 2013 on a fixed term to November 30, 2014 and after went to month to month. Rent is \$1540 per month and a security deposit of \$770 was paid.

The landlord testified that the tenant is in rent arrears of \$865 including one late fee of \$25 which is January rent of \$1540 less a payment of \$700. The tenant made two payments after the Notice to End Tenancy was given, one of \$565 on December 30, 2014 and one of \$700 on January 2015; for each payment, the tenant was issued a receipt "for use and occupancy only" as the landlord does not wish to reinstate the tenancy.

In evidence is the Notice to End Tenancy, the lease agreement, proof of service, a rent ledger and rent calculations and several receipts showing “for use and occupancy only”.

On the basis of the documentary and solemnly sworn evidence presented at the hearing, a decision has been reached.

### **Analysis**

#### **Order of Possession**

I find that the landlord is entitled to an Order of Possession. There is outstanding rent. The tenant did not pay the outstanding amount within the 5 days allowed under section 46 and has not made application pursuant to Section 46 to set aside the Notice to End a Residential Tenancy and the time to do so has expired. In these situations, the *Residential Tenancy Act* provides that the tenant has been deemed to have accepted the end of the tenancy on the date set out in the Notice. An Order of Possession is issued effective two days from service.

#### **Monetary Order**

I find that there are rental arrears in the amount of \$865 representing the balance of rent for January plus a \$25 late filing fee. I find the landlord is entitled to retain the security deposit to offset the amount owing.

### **Conclusion:**

I find the landlord is entitled to an Order of Possession effective two days from service and a monetary order as calculated below. I find the landlord is entitled to recover filing fees paid for this application.

#### **Calculation of Monetary Award:**

Rent arrears to January 2015+ late fee	865.00
Filing fee	50.00
Less security deposit	-770.00
Total Monetary Order to Landlord	145.00

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 21, 2015

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**Residential Tenancy Branch**

