



# 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 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 and Utilities, a monetary Order for unpaid rent and utilities, 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 female Agent for the Landlord stated that on February 16, 2015 the Application for Dispute Resolution, the Notice of Hearing and documents the Landlord wishes to rely upon as evidence were sent to the Tenant at the rental unit, via registered mail. She cited a tracking number that corroborates this statement. 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 an Order of Possession for unpaid rent; to a monetary Order for unpaid rent and utilities; and to keep all or part of the security deposit?

### Background and Evidence

The female Agent for the Landlord stated that this tenancy began on January 01, 2014; that the Landlord and the Tenant had a verbal tenancy agreement; that the Tenant agreed to pay monthly rent of \$950.00 by the first day of each month; and that the Tenant paid a security deposit of \$475.00.

The female Agent for the Landlord stated that by February 06, 2015 the Tenant had not paid rent for October of 2014, November of 2014, December of 2014, January of 2015, or February of 2015.

The female Agent for the Landlord stated that the Tenant agreed to pay for gas and hydro at the rental unit. She stated that by February 06, 2015 the Tenant had not paid a gas bill of \$88.08 and a hydro bill of \$245.22.

The female Agent for the Landlord stated that the Tenant paid \$1,200.00 on February 14, 2015. She stated that \$333.30 of this payment was applied to the outstanding utility charges and that the remaining \$866.70 was applied to the outstanding rent.

The male Agent for the Landlord stated that he posted a Ten Day Notice to End Tenancy for Unpaid Rent and Utilities on the door of the rental unit on January 14, 2015. This Notice, which was submitted in evidence, declares that the Tenant must vacate the rental unit by January 24, 2015.

### 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 \$950.00 by the first day of each month.

On the basis of the undisputed evidence, I find that the Tenant has not paid rent for October of 2014, November of 2014, December of 2014, and January of 2015. Section 26(1) of the *Act* requires tenants to pay rent to their landlord when it is due and I therefore find that the Tenant owes the Landlord \$3,800.00 in rent for these months.

If rent is not paid when it is due, section 46(1) of the *Act* entitles landlords to end the tenancy within ten days by providing proper written notice. On the basis of the undisputed evidence, I find that the Ten Day Notice to End Tenancy for Unpaid Rent and Utilities, served pursuant to section 46 of the *Act*, was posted at the rental unit on January 14, 2015.

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. 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 has ended. On this basis I grant the landlord an Order of Possession.

On the basis of the undisputed evidence, I find that on February 14, 2015 the Tenant paid \$1,200.00 to the Landlord, which was applied to the utility bills of \$88.08 and \$245.22. I find it reasonable to conclude that the remaining \$866.70 was applied to unpaid rent for February of 2015.

As the Tenant did not vacate the rental unit on the effective date of the Notice to End Tenancy, which was January 24, 2015, 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. As the Tenant has already been ordered to pay rent for the period between January 01,

2015 and January 31, 2015, I find that the Landlord has been fully compensated for that period.

I find that the Tenant must also compensate the Landlord for the month of February, as the Tenant remained in possession of the rental unit for the majority of that month and it is highly unlikely that the Landlord will find a renter for the remainder of the month, even if the Tenant vacated the rental unit on February 27, 2015. As a payment of \$866.70 has already been applied to per diem rent owing for February, I find that the Tenant still owes \$83.30 for February.

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

I grant the Landlord an Order of Possession that is effective at 1:00 p.m. on February 28, 2015. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia, and enforced as an Order of that Court.

The Landlord has established a monetary claim, in the amount of \$3,933.30, which is comprised of \$3,883.30 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 \$475.00, in partial satisfaction of the monetary claim.

Based on these determinations I grant the Landlord a monetary Order for the balance of \$3,458.30. 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: February 27, 2015

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Residential Tenancy Branch

