



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNDC, FF, ET

### 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, damage or loss pursuant to section 67;
- an order for an early end to tenancy; 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 I waited until 11:14 a.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 11:00 a.m. The landlord attended the hearing and was given a full opportunity to be heard, to present sworn testimony, and to make submissions.

The landlord provided sworn undisputed testimony that he personally served the 10 Day Notice to End Tenancy for Unpaid Rent ("10 Day Notice") to the tenant on February 26, 2015. The landlord also testified that he personally served the Application for Dispute Resolution package and Notice of Hearing on March 13, 2015. Based on the sworn undisputed testimony of the landlord, and supporting documentary evidence, I find that the tenant was duly served with the 10 Day Notice to End Tenancy and the Application for Dispute Resolution package in accordance with the *Act*.

### Issues to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent or an order for an early end to the tenancy?

Is the landlord entitled to a monetary order for unpaid rent, damage or loss?

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

### Background and Evidence

The landlord testified that this tenancy began in January, 2014. The rental amount is \$1700.00 payable on the first of each month. The sworn and undisputed testimony of the landlord was that no security deposit was provided by the tenant before or during the tenancy. The landlord testified that the tenant and several other occupants continue to reside in the rental unit as of the date of this hearing.

The landlord testified that, for the first six months of this tenancy, the rent was paid through a company in full each month. The landlord testified that, after July 2014, rent was paid by the tenant in cash. The landlord testified that rent for November was not paid in full by the tenant. He testified the tenant paid only \$300.00 in November 2014. He testified that the tenant has paid rent sporadically and in partial payments since October 2014 through March 2015.

The landlord has applied for an Order of Possession for unpaid rent for the month of February 2015. The landlord testified that the tenant did not pay rent of \$1700.00 due on February 1, 2015. The landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent. The landlord testified that the tenant did not pay the February 2015 rent after receiving the 10 Day Notice on February 26, 2015. The landlord testified that, as of the date of this hearing, the tenant has not paid any rental arrears or March 2015 rent.

After the expiration of that 10 Day period, and receipt of an official letter that the tenant is violating a city by-law, the landlord applied for an Order of Possession. The landlord applies for an Order of Possession and monetary order based on the tenant's failure to pay rent as required by the agreement and the *Residential Tenancy Act*. Based on the evidence presented at hearing and in the landlord's breakdown of outstanding rental amounts, the landlord sought a monetary award of \$4800.00 for the months of February, and March 2015 at 1700.00 per month as well as \$1400.00 in rental arrears from November 2014.

As part of this application, the landlord also sought to end the tenancy early based on notice from the city fining the landlords and advising that an unlicensed recovery facility was being run on the residential tenancy property. The landlord submitted notifications to the landlord from the city authorities advising the landlord to have the operator of the facility cease and desist from unauthorized work.

### Analysis

The undisputed testimony of the landlord is that the tenant failed to pay the February 2015 rent on February 1, 2015. The tenant also failed to pay the February 2015 rent within five days of receiving the 10 Day Notice to End Tenancy. The tenant has not made application pursuant to section 46(4) of the *Act* within five days of receiving the 10 Day Notice. In accordance with section 46(5) of the *Act*, the tenant's failure to take either of these actions within five days led to the end of his tenancy on the effective date of the notice. In this case, this required the tenant to vacate the premises by February 8, 2015. As that has not occurred, I find that the landlord is entitled to a 2 day Order of Possession.

As I have found that the landlord is entitled to a 2 day Order of Possession for this rental unit, I do not need to consider the application for an early end to tenancy or the premise on which it is based. I do note that the evidence submitted by the landlord is concerning with respect to allegations of an unlicensed recovery facility. I also note that the landlords may incur further costs if these allegations are found to be accurate.

Based on the testimony of the landlord, I find that the landlord is entitled to receive an order for unpaid rent in November 2014, February 2015 and March 2015. I am issuing the attached monetary order that includes the landlord's application for \$4800.00 in unpaid rent for those months.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$50.00 filing fee paid for this application.

### Conclusion

I am granting the landlords an Order of Possession to be effective two days after notice is served to the tenant. If the tenant does not vacate the rental unit within the 2 days required, the landlord may enforce this Order in the Supreme Court of British Columbia.

I issue a monetary Order in favour of the landlords as follows:

Rental Arrears for November 2014	\$1400.00
Rental Arrears for February 2015	1700.00
Rental Arrears for March 2015	1700.00
Recovery of Filing Fee for this application	50.00
<b>Total Monetary Award</b>	<b>\$4850.00</b>

The landlord is provided with formal Orders in the above terms. Should the tenant(s) fail to comply with these Orders, these Orders may be filed and enforced as Orders of the Provincial Court of British Columbia.

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: March 30, 2015

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Residential Tenancy Branch

