



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding CASCADIA APT. RENTALS LTD.  
and [tenant name suppressed to protect privacy]

## **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, damage or loss 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.

Both parties attended the hearing and were given full opportunity to be heard, to present evidence and to make submissions. The landlord provided evidence that a 10 Day Notice to End Tenancy for Unpaid Rent served to both tenants on February 6, 2015 by posting the notice on the door. The tenant acknowledged receipt of the 10 Day Notice by himself and his co-tenant. The landlord gave sworn testimony that he personally served both tenants individually with the Application for Dispute Resolution hearing package on February 24, 2015. I accept that both tenants were duly served with the 10 Day Notice and the Application for Dispute Resolution hearing package.

### 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 and losses arising out of this tenancy?

Is the landlord entitled to retain all or a portion of the tenants' security deposit towards any monetary award?

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

### Background and Evidence

The landlord gave evidence that the rental agreement for the premises began on March 1, 2013. The rental amount for this unit was established at \$1350.00. The current rental amount is \$1379.00 payable on the first of each month. The landlord testified that she continued to hold the \$675.00 security deposit that the tenants paid on February 14, 2013.

The landlord has applied for an Order of Possession for unpaid rent for the month of February 2015. The landlord testified that the tenants did not pay rent of \$1379.00 due on February 1, 2015. The landlord testified that there has been some history of returned cheques from the tenant and his co-tenant.

The landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent. The landlord testified that the tenants did not pay the February rent after receiving the 10 Day Notice on February 6, 2015. After the expiration of that 10 Day period, the landlord applied for an Order of Possession.

The landlord is also seeking a monetary award of \$2758.00 for the months of February 2015 and March 2015. The landlord testified that the tenants remain in the residence and have now paid no rent for February or March 2015. The tenant testified providing reasons why he has been unable to pay rent but was candid in testifying that he did not know when he would be able to pay.

### Analysis

The tenants failed to pay the February rent within five days of receiving the 10 Day Notice to End Tenancy. The tenants have 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 tenants' failure to take either of these actions within five days led to the end of this tenancy on the effective date of the notice. In this case, this required the tenants to vacate the premises by February 19, 2015. As that has not occurred, I find that the landlord is entitled to an Order of Possession for the end of March 2015, as requested.

Tenant MS was present at the hearing and did not dispute that he had not paid February or March 2015 rent. I am issuing the attached monetary order that includes the landlord's application for \$2758.00 in unpaid rent for February and March 2015.

The landlord testified that he continues to hold a security deposit of \$675.00 plus interest from February 14, 2013 to the date of this decision for this tenancy. There is NO

interest payable for this period. I will allow the landlord to retain the security deposit in partial satisfaction of the monetary award.

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 March 31, 2015 at 4:00 p.m. 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 February	\$1379.00
Rent for March	1379.00
Less Security Deposit	-675.00
Recovery of Filing Fee for this application	50.00
<b>Total Monetary Award</b>	<b>\$2133.00</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 24, 2015

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Residential Tenancy Branch

