



## Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

### **DECISION**

Dispute Codes      OPR, MNR, MNSD, FF

#### Introduction

This matter dealt with an application by the Landlord for an Order of Possession and a Monetary Order for unpaid rent, to recover the filing fee for this proceeding and to keep the Tenant's security deposit in partial payment of those amounts.

The Landlord said she served the Tenant with the Application and Notice of Hearing (the "hearing package") by registered mail on March 20, 2015. Based on the evidence of the Landlord, I find that the Tenant was served with the Landlord's hearing package as required by s. 89 of the Act and the hearing proceeded with both parties in attendance.

#### Issues(s) to be Decided

1. Does the Landlord have grounds to end the tenancy?
2. Are there rent arrears and if so, how much?
3. Is the Landlord entitled to compensation for unpaid rent and if so how much?
4. Is the Landlord entitled to keep the Tenant's security deposit?

#### Background and Evidence

This tenancy started on November 1, 2009 as a month to month tenancy. Market rent is \$728.00 and the Tenant pays a subsidized rent of \$403.00. A security deposit of \$250.00 was paid in advance of the tenancy.

The Landlord said that the Tenant did not pay the full rent from September, 2014 to March, 2015 when it was due and as a result, on March 10, 2015 she posted a 10 day Notice to End Tenancy for Unpaid Rent or Utilities dated March 10, 2015 on the door of the Tenant's rental unit. The Landlord said the Tenant has unpaid rent for September to March in the amount of \$1,621.00. As well the Landlord said the Tenant has unpaid

utilities of \$59.37 and the Tenant has not paid the April, 2015 rent of \$403.00. The Landlord said the Tenant has unpaid rent and utilities in the amount of \$2,083.57.

The Landlord supported these claims by submitting a copy of the Tenant's rental ledger summary and the utility bills.

The Landlord further indicated that the Tenant is living at the rental unit and the Landlord requested an Order of Possession for as soon as possible as the Landlord wants to end the tenancy.

The Tenant said she agrees that she has the amount of unpaid rent and utilities that the Landlord has indicated. The Tenant said all she wants to know is when she has to move out of the rental unit.

### Analysis

Section 46(4) of the Act states that **within 5 days of receiving** a Notice to End Tenancy for Unpaid Rent or Utilities, a Tenant must pay the overdue rent or apply for dispute resolution. If the Tenant fails to do either of these things, then under section 46(5) of the Act, they are conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice and they must vacate the rental unit at that time.

Under s. 90 of the Act, the Tenant is deemed to have received the Notice to End Tenancy 3 days after it was posted, or on March 13, 2015. Consequently, the Tenant would have had to pay the amount stated on the Notice or apply to dispute that amount no later than March 18, 2015.

I find that the Tenant has not paid the overdue rent and has not applied for dispute resolution. Consequently, I find pursuant to s. 55 of the Act that the Landlord is entitled to an Order of Possession to take effect 48 hours after service of it on the Tenant.

I also find that the Landlord is entitled to recover unpaid rent for the months of September, 2014 to March, 2015 in the amount of \$1,621.00, the utilities in the amount of \$59.37 and the April, 2015 rent of \$403.00.

As the Landlord has been successful in this matter, she is also entitled to recover from the Tenant the \$50.00 filing fee for this proceeding. I order the Landlord pursuant to s. 38(4) and s. 72 of the Act to keep the Tenant's security deposit partial payment of the rent arrears. The Landlord will receive a monetary order for the balance owing as following:

	Rent arrears:	\$2,024.00	
	Unpaid utilities	\$ 59.37	
	Recover filing fee	\$ 50.00	
	Subtotal:		\$2,133.37
Less:	Security Deposit	\$250.00	
	Subtotal:		\$ 250.00
	Balance Owing		\$1,883.37

### Conclusion

An Order of Possession effective 2 days after service of it on the Tenant and a Monetary Order in the amount of \$1,883.37 have been issued to the Landlord. A copy of the Orders must be served on the Tenant: the Order of Possession may be enforced in the Supreme Court of British Columbia and the Monetary Order may be enforced in the Provincial (Small Claims) 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: April 29, 2015

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Residential Tenancy Branch