



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding HOMELIFE PENINSULA PROPERTY MANAGEMENT  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, OPC, OPB, MNR, MNSD, MNDC, FF

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for:

- an Order of Possession for unpaid rent, cause and breach of an agreement, pursuant to section 55;
- a monetary order for unpaid rent and money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, 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.

The landlord's agent, TV ("landlord") and the tenant attended the hearing and were each given a full opportunity to be heard, to present their sworn testimony, to make submissions and to call witnesses. The landlord confirmed that she was the operations manager for the landlord company named in this Application and that she had authority to represent the landlord company as an agent at this hearing.

The tenant confirmed receipt of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent, dated March 13, 2015 ("10 Day Notice"), on the same date by way of posting to his rental unit door. In accordance with sections 88 and 90 of the *Act*, I find that the tenant was duly served with the landlord's 10 Day Notice.

The tenant confirmed receipt of the landlord's application for dispute resolution hearing package ("Application"), which was served by way of registered mail on April 9, 2015. In accordance with sections 89 and 90 of the *Act*, I find that the tenant was duly served with the landlord's Application.

### Issues to be Decided

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to a monetary award for unpaid rent or money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement?

Is the landlord entitled to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary award requested?

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 on December 1, 2014 for a fixed of one year. Monthly rent in the amount of \$1,400.00 is payable on the first day of each month. A security deposit of \$700.00 was paid by the tenant. A written tenancy agreement was provided with the landlord's Application. The tenant continues to reside in the rental unit.

The landlord issued the 10 Day Notice, indicating that rent in the amount of \$1,400.00 was due on March 1, 2015. Both parties agreed that the tenant owes unpaid rent of \$1,400.00 for each month from March to May 2015, totalling \$4,200.00. The landlord seeks a monetary order of \$4,200.00 for the unpaid rent plus the \$50.00 filing fee for this Application.

### Analysis

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During the hearing the parties discussed the issues between them, engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

Both parties agreed to the following final and binding settlement of all issues currently under dispute at this time:

1. The parties agreed to set aside the existing payment terms of their written tenancy agreement until July 1, 2015, on the basis of the tenant's agreement to pay the landlord rent for this tenancy, according to the following schedule:

- a. \$1,400.00 by May 22, 2015;
  - b. \$1,400.00 by May 29, 2015;
  - c. \$1,400.00 by June 5, 2015;
  - d. \$1,400.00 by June 12, 2015;
2. Both parties agreed that condition #1 of the above monetary agreement satisfies all unpaid rent currently owing for this tenancy from March to May 2015 (totaling \$4,200.00), as well as future rent for June 2015 (totaling \$1,400.00);
3. Both parties agreed that this tenancy will continue under the terms of the written tenancy agreement, in the event that the tenant abides by condition #1 of the above monetary settlement. In that event, the landlord agreed to withdraw the 10 Day Notice, dated March 13, 2015;
4. Both parties agreed that this tenancy will end pursuant to a two (2) day Order of Possession, if the tenant defaults on any rent payments under condition #1 of the above monetary settlement.
5. Both parties agreed that this settlement agreement constitutes a final and binding resolution of the landlord's Application at this hearing.

These particulars comprise the full and final settlement of all aspects of this dispute for both parties. Both parties gave verbal sworn affirmation at the hearing that they understood and agreed to the above terms as legal, final, binding and enforceable, which settle all aspects of this dispute.

### Conclusion

To give effect to the settlement reached between the parties and as discussed with them during the hearing, I issue the attached two (2) day Order of Possession to be used by the landlord **only** if the tenant does not abide by the terms of condition #1 of the above monetary agreement. As advised to both parties during the hearing, this Order of Possession expires. This two day **Order of Possession expires on June 30, 2015** and it cannot be served upon the tenant after **June 30, 2015**, as that is the last month for the monetary agreement outlined above. The landlord is provided with this Order in the above terms and the tenant must be served with this Order in the event that the tenant does not abide by condition #1 of the above monetary agreement. Should the tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

In the event that the tenant abides by condition #1 of the above monetary settlement, I find that the landlord's 10 Day Notice, dated March 13, 2015, is cancelled and of no force or effect. In that event, this tenancy continues under the terms of the written tenancy agreement, until it is ended in accordance with the *Act*.

To give effect to the settlement agreement between the parties, I order that the existing monetary terms of the written tenancy agreement between these parties and the dates when payments are due are to be amended to the schedule outlined in condition #1 as set out above until July 1, 2015. Should this tenancy continue after July 1, 2015, the terms of the written tenancy agreement will take effect for the remainder of the tenancy until revised in accordance with the *Act*.

In order to implement the above settlement reached between the parties, and as advised to both parties during the hearing, I issue a monetary Order in the landlord's favour in the amount of \$4,200.00, the amount currently owing for this tenancy from March to May 2015. I deliver this Order to the landlord in support of the above agreement for use **only** in the event that the tenant does not pay the landlord \$4,200.00 in accordance with condition #1 of the above monetary agreement. The landlord is provided with this Order in the above terms and the tenant must be served with a copy of this Order as soon as possible after the tenant does not pay the landlord \$4,200.00 as per condition #1 of the above monetary agreement. Should the tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court. As advised to the landlord during this hearing, the landlord is at liberty to apply for a new monetary award for the remaining \$1,400.00 for the future rent amount that becomes owing for June 2015.

As this tenancy is currently continuing, the landlord's application to retain the tenant's security deposit is dismissed with leave to reapply. As this matter settled between the parties and I was not required to make a decision on the merits, I decline to award the \$50.00 filing fee to the landlord for this Application.

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: May 14, 2015

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Residential Tenancy Branch

