



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Dispute Codes:

**OPR, MNR, MNSD, FF**

### Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has requested an Order of possession for unpaid rent, a monetary Order for unpaid rent, to retain the security deposit and to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained, evidence was reviewed and the parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present affirmed oral testimony and to make submissions during the hearing. I have considered all of the evidence and testimony provided.

### Issue(s) to be Decided

Is the landlord entitled to an Order of possession for unpaid rent?

Is the landlord entitled to a monetary Order for unpaid rent?

May the landlord retain the security deposit paid by the tenant?

### Mutually Settled Agreement

The parties agreed that the tenancy commenced seven years ago. Rent is currently \$830.00 per month, due on the first day of each month. The landlord is holding a security deposit in the sum of \$400.00.

There was no dispute that the tenant received a ten day Notice to end tenancy for unpaid rent on April 28, 2015. The tenant agreed that he currently owes \$730.00 for the balance of May 2015 rent. The tenant agreed that he did not pay the \$230.00 owed when the Notice was issued until a payment was made on May 4, 2015.

The landlord confirmed that he has issued receipts for cash rent payments but recently has not.

The parties mutually agreed to the following:

- The landlord is entitled to an Order of possession effective two days after service to the tenant.
- The tenant will pay the balance of May 2015 rent owed in the sum of \$720.00 no later than June 12, 2015.
- The tenant must also pay June 2015 rent owed on the first day of June 2015.
- If full payment of the balance of May 2015 rent (\$720.00) and June 2015 rent is not made by June 12, 2015 the landlord is entitled to serve the Order of possession to the tenant on June 13, 2015.
- If all rent is paid in full by June 12, 2015 the Order of possession will only be effective should the tenant fail to pay July and August 2015 rent by the first day of each month. For example, if July rent is not paid on the first day of that month the landlord may serve the Order of possession to the tenant on July 2, 2015. If July 2015 rent is paid on time then the Order of possession may be served on August 2, 2015 if rent is not paid by the first day of August.
- If all rent is paid, as agreed and is paid on time in July and August 2015 the tenancy will be reinstated and the Order of possession will no longer be enforceable.

Section 63 of the Act provides:

***Opportunity to settle dispute***

**63** (1) *The director may assist the parties, or offer the parties an opportunity, to settle their dispute.*

(2) *If the parties settle their dispute during dispute resolution proceedings, the director may record the settlement in the form of a decision or an order.*

Therefore, in support of the mutually settled agreement of the parties I find that the landlord is entitled to compensation in the sum of \$720.00 for the balance of May 2014 rent owed.

Based on the mutually settled agreement I grant the landlord a monetary Order in the sum of \$720.00. This order is not enforceable should the tenant pay the rent owed by June 12, 2015. 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.

The landlord has been granted an Order of Possession that is effective 2 days after service to the tenant on the dates set out in the above mutually settled agreement. If

rent is not paid as agreed this Order may be served on the tenant, filed with the Supreme Court of British Columbia and enforced as an Order of that Court. If all rent is paid as agreed and Ordered up to August 1, 2015 the Order will then become unenforceable. The tenancy will then continue until it is ended in accordance with the Act.

If the tenant fails to pay the balance of May 2015 rent in the sum of \$720.00 by June 12, 2015, pursuant to section 72 of the act, I find that the landlord may retain the \$400.00 security deposit in partial satisfaction of the sum owed.

Pursuant to section 26(2) of the Act, I Order the landlord to issue receipts for all rent payments made in cash.

### Conclusion

By the mutually settled agreement of the parties the landlord is entitled to an Order of possession and monetary Order for unpaid rent; enforceable as set out above.

The landlord is entitled to payment of June 2015 rent and \$720.00 for May 2015 rent no later than June 12, 2015. A monetary Order has been issued in the sum of \$720.00 for May 2015 rent which may be enforced after June 12, 2015.

If May 2015 rent is not paid as agreed and Ordered the landlord is entitled to retain the security deposit.

This decision and mutually settled agreement is final and binding on the parties, unless otherwise provided under the Act, and 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 26, 2015

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Residential Tenancy Branch

