



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Dispute Codes:

CNR, CNL, OPR, MNR, MNSD, FF

### Introduction

This hearing was convened in response to cross applications.

The Landlord filed an Application for Dispute Resolution, in which the Landlord applied for an Order of Possession for Unpaid Rent, a monetary Order for unpaid rent, to retain all or part of the security deposit, and to recover the fee for filing this Application for Dispute Resolution.

The Agent for the Landlord stated that on May 20, 2015 he personally served the Tenant with the Application for Dispute Resolution, the Notice of Hearing and documents the Landlord submitted to the Residential Tenancy Branch as evidence. In the absence of evidence to the contrary, I find that these documents have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*; however the Tenant did not appear at the hearing.

The Tenant filed an Application for Dispute Resolution, in which the Tenant applied to cancel a Notice to End Tenancy for Landlord's Use of Property, to cancel a Notice to End Tenancy for Unpaid Rent, and for more time to apply to cancel a Notice to End Tenancy.

### Preliminary Matter

As the Tenant did not attend the hearing in support of her Application for Dispute Resolution, I find that she has failed to diligently pursue the Application. I therefore dismiss the Tenant's Application for Dispute Resolution, without leave to reapply.

### Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession for unpaid rent; to a monetary Order for unpaid rent; and to keep all or part of the security deposit?

### Background and Evidence

The Agent for the Landlord stated that this tenancy began on September 01, 2014; that the Tenant agreed to pay monthly rent of \$700.00 by the first day of each month; and that the Tenant paid a security deposit of \$350.00.

The Agent for the Landlord stated that on March 31, 2015 the Tenant was served with a Two Month Notice to End Tenancy for Landlord's Use of Property, which declared that the Tenant must vacate the rental unit by May 31, 2015. He stated that the Landlord and the Tenant agreed that the Tenant would not have to pay rent for April of 2015, as compensation for being served with a Two Month Notice to End Tenancy for Landlord's Use of Property.

The Agent for the Landlord stated that the Tenant did not pay any rent for May or June of 2015.

The Agent for the Landlord stated that on May 12, 2015 he personally served the Tenant with a Ten Day Notice to End Tenancy for Unpaid Rent, which had a declared effective date of May 22, 2015.

The Agent for the Landlord stated that the Tenant has not vacated the rental unit so the Landlord is seeking an Order of Possession and rent for June of 2015.

### Analysis

On the basis of the undisputed evidence, I find that the Tenant entered into a tenancy agreement with the Landlord that required the Tenant to pay monthly rent of \$750.00 by the first day of each month. Section 26(1) of the *Act* requires tenants to pay rent to their landlord when it is due.

On the basis of the undisputed evidence, I find that the Tenant did not pay rent for May of 2015. As the Tenant is required to pay rent for May, pursuant to section 26(1) of the *Act*, I find that the Tenant must pay \$700.00 in rent for May.

If rent is not paid when it is due, section 46(1) of the *Act* entitles landlords to end the tenancy within ten days, by providing proper written notice. On the basis of the undisputed evidence, I find that the Ten Day Notice to End Tenancy, served pursuant to section 46 of the *Act*, was personally served to the Tenant on May 12, 2015.

As the Tenant has not paid rent for May and she has been served with a Ten Day Notice to End Tenancy, I find that the Landlord has the right to end this tenancy pursuant to section 46 of the *Act*. I therefore grant the Landlord's application for an Order of Possession.

As the Tenant did not vacate the rental unit on May 22, 2015, which was the effective date of the Notice to End Tenancy, I find that the Tenant was obligated to pay rent, on a per diem basis, for the days the Tenant remained in possession of the rental unit. As the Tenant has already been ordered to pay rent for the period between May 22, 2015 and May 31, 2015, I find that the Landlord has been fully compensated for that period.

I also find that the Tenant must compensate the Landlord for the 22 days in June that the Tenant remained in possession of the rental unit for those days, at a daily rate of \$23.33, which equates to \$513.26. I am unable to award compensation for the entire month of June, as it is entirely possible that the Tenant will vacate the rental unit on June 22, 2015. The Landlord retains the right to file another Application for Dispute Resolution seeking additional compensation if the rental unit is not vacated on June 22, 2015.

I find that the Landlord's application has merit and that the Landlord is entitled to recover the cost of filing this Application for Dispute Resolution.

### Conclusion

I grant the Landlord an Order of Possession that is effective two days after it is served upon the Tenant. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia, and enforced as an Order of that Court.

The Landlord has established a monetary claim, in the amount of \$1,263.26, which is comprised of \$1,213.26 in unpaid rent and \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution. Pursuant to section 72(2) of the *Act*, I authorize the Landlord to keep the Tenant's security deposit of \$350.00, in partial satisfaction of the monetary claim.

Based on these determinations I grant the Landlord a monetary Order for the balance of \$913.26. 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.

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: June 23, 2015

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Residential Tenancy Branch

