



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding LAURELWOOD VENTURES  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MNR, MNSD, FF

### Introduction

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

- an Order of Possession for unpaid rent, pursuant to section 55;
- a monetary order for unpaid rent, 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 each given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The landlord confirmed that he was the property manager for the landlord company named in this application and that he had authority to represent the landlord company as an agent at this hearing. The landlord was also named as an individual applicant, in this Application.

The tenant confirmed personal receipt of the landlords' 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated May 3, 2015 ("10 Day Notice"), on the same date. In accordance with section 88 of the *Act*, I find that the tenant was duly served with the landlords' 10 Day Notice.

The tenant confirmed receipt of the landlords' application for dispute resolution hearing package ("Application"), with the exception of the tenancy agreement. In accordance with sections 89 and 90 of the *Act*, I find that the tenant was duly served with the landlords' Application, with the exception of the tenancy agreement. As the tenancy agreement was not material to my decision, I do not make a finding with respect to its service upon the tenant.

Preliminary Issue – Amendment of Landlords' Application

The landlord confirmed that he wished to amend the landlords' Application to correct the tenant's name. The tenant consented to this amendment. Given the tenant's consent and in accordance with section 64(3)(c) of the *Act*, I amend the landlords' Application to correct the tenant's name, which is now correctly reflected on the front page of this decision.

The landlord confirmed that he wished to amend the landlords' Application to increase his monetary claim to include June and July 2015 unpaid rent of \$1,050.00 total. The tenant consented to this amendment, as he agreed that he owes this unpaid rent to the landlords. Given the tenant's consent and in accordance with section 64(3)(c) of the *Act*, I amend the landlords' Application to include a monetary claim for June and July 2015 unpaid rent of \$1,050.00 total.

#### Issues to be Decided

Are the landlords entitled to an Order of Possession for unpaid rent?

Are the landlords entitled to a monetary award for unpaid rent?

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

Are the landlords 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, while the tenant testified that it began in September 2014. The tenant stated that he has lived in this same rental building since May 2013, but that he began occupying the current rental unit pursuant to a new tenancy agreement. The landlord indicated that this tenancy is for a fixed term to end on May 31, 2015. Monthly rent in the amount of \$525.00 is payable on the first day of each month. A security deposit of \$262.50 was paid by the tenant and the landlords continue to retain this deposit. The tenant continues to reside in the rental unit.

The landlords issued the 10 Day Notice, indicating that rent in the amount of \$2,125.00 was due on May 1, 2015. The notice indicates an effective move-out date of May 13, 2015. Both parties agreed that the tenant owes this unpaid rent of \$2,100.00 for the

period from February to May 2015, inclusive, plus \$25.00 for an NSF fee. Both parties agreed that the tenant also owes unpaid rent of \$1,050.00 total for June and July 2015.

The landlords are also seeking to recover the \$50.00 filing fee for this Application from the tenant.

### Analysis

Both parties agreed that the tenant failed to pay the full rent due on May 1, 2015, within five days of receiving the 10 Day Notice. The tenant has not made an 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 failure of the tenant to take either of these actions within five days led to the end of this tenancy on May 13, 2015, the effective date on the 10 Day Notice. In this case, this required the tenant and anyone on the premises to vacate the premises by May 13, 2015. As this has not occurred, I find that the landlords are entitled to a **seven (7) day Order of Possession**.

Section 7(1) of the *Act* establishes that a tenant who does not comply with the *Act*, the regulations or the tenancy agreement must compensate the landlords for damage or loss that results from that failure to comply. I find that the landlords are entitled to \$3,150.00 in rental arrears from February to July 2015 and \$25.00 for the NSF fee, as both parties agreed that the tenant owes these amounts.

The landlords continue to hold the tenants' security deposit of \$262.50. In accordance with the offsetting provisions of section 72 of the *Act*, I allow the landlords to retain the tenant's security deposit of \$262.50 in partial satisfaction of the monetary award. No interest is payable over this period.

As the landlords were successful in this Application, I find that they are entitled to recover the \$50.00 filing fee paid for their Application.

### Conclusion

I grant an Order of Possession to the landlords effective **seven days after service of this Order** on the tenant. Should the tenant or anyone on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I issue a monetary order in the landlords' favour in the amount of \$2,962.50 against the tenant as follows:

Item	Amount
Unpaid February 2015 Rent	\$525.00
Unpaid March 2015 Rent	525.00
Unpaid April 2015 Rent	525.00
Unpaid May 2015 Rent	525.00
Unpaid June 2015 Rent	525.00
Unpaid July 2015 Rent	525.00
NSF Fee	25.00
Less Security Deposit	-262.50
Recovery of Filing Fee for this Application	50.00
<b>Total Monetary Award</b>	<b>\$2,962.50</b>

The landlords are provided with a monetary order in the amount of \$2,962.50 in the above terms and the tenant must be served with this Order as soon as possible. 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.

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: July 09, 2015

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Residential Tenancy Branch

