



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes

OPB MNR FF

### Introduction

This hearing dealt with a landlord's Application for Dispute Resolution under the *Residential Tenancy Act* (the "Act") to obtain an order of possession due to the tenant breaching an agreement with the landlord, and for a monetary order for unpaid rent or utilities.

The landlord and a witness for the landlord, J.S. attended the hearing. The hearing process was explained to the landlord, and during the hearing the landlord was given the opportunity to provide his evidence orally. A summary of the evidence is provided below and includes only that which is relevant to the hearing.

As the tenant did not attend the hearing, service of the Notice of a Dispute Resolution Hearing (the "Notice of Hearing") and Application for Dispute Resolution (the "Application") were considered. The landlord testified that the Notice of Hearing, Application and documentary evidence was served on the tenant personally on June 4, 2015 at the rental unit at 5:00 p.m., which was witnessed by witness J.S. Witness J.S. testified under oath that she was present with the landlord when the tenant was personally served on June 4, 2015 at the rental unit. Based on the above, I accept that the tenant was sufficiently served on June 4, 2015, in accordance with the *Act*.

### Preliminary and Procedural Matters

The landlord testified that in addition to the rent owed for May 2015, the tenant has failed to make any payments for June or July of 2015, and that the landlord has suffered a loss of rent of \$1,000 for June 2015 and a loss of rent of \$1,000 for July 2015 as a result. The landlord requested to amend his application to include his loss for June and July 2015 as a result as the tenant continues to occupy the rental unit. I find that this request to amend the application does not prejudice the respondent tenant as the tenant would be aware that rent is due pursuant to the tenancy agreement, I amend the application to \$2,500, which consists of unpaid rent of \$500 for May 2015, and loss of rent of \$1,000 for June 2015 and loss of rent of \$1,000 for July 2015 pursuant to section 64(3)(c) of the *Act*.

### Issues to be Decided

- Is the landlord entitled to an order of possession under the *Act*?
- Is the landlord entitled to a monetary order under the *Act*, and if so, in what amount?
- Is the landlord entitled to recover the cost of the filing fee under the *Act*?

### Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A month to month tenancy began on December 1, 2014. Monthly rent in the amount of \$1,000 is due on the first day of each month. A security deposit of \$500 was paid by the tenant at the start of the tenancy, which the landlord continues to hold.

The landlord submitted in evidence, a copy of a letter from the tenant dated May 2, 2015 which indicates that the tenant would be vacating the rental unit on May 31, 2015. The landlord stated that the tenant failed to vacate the rental unit and continues to occupy the rental unit. As a result, the landlord is seeking an order of possession.

The landlord testified that the tenant only paid \$500 towards May 2015 rent and in the letter dated May 2, 2015, wrote the following:

“....I paid \$500 for May rent and my damage deposit for the other half...”

[reproduced as written]

The landlord verbally requested to retain the tenant's full security deposit towards any monetary order granted as the tenant provided her authorization in writing to retain \$500 of her security deposit towards the \$500 owing for May 2015 rent.

### Analysis

Based on the documentary evidence and the undisputed testimony of the landlord provided during the hearing, and on the balance of probabilities, I find the following.

**Order of possession** – Section 44(1)(a)(i) of the *Act* provides that a tenancy may end if the tenant provides a notice to end tenancy. Based on the undisputed evidence before me, I find that the tenant provided written notice dated May 2, 2015 that the tenant would be vacating the rental unit as of May 31, 2015. As the tenant continues to occupy the rental unit as of the date of this hearing, July 14, 2015, **I grant** the landlord an order of possession **effective two (2) days after service on the tenant**, as May 31, 2015 has already passed. I find the tenancy ended on May 31, 2015 and that the tenant is overholding in the rental unit as a result.

As the landlord's application had merit, **I grant** the landlord the recovery of the filing fee in the amount of **\$50**.

**Unpaid rent and loss of rent** – I accept the undisputed testimony of the landlord that the tenant has failed to pay \$500 in rent owing for May 2015, and that the tenant continues to occupy the rental unit even though the tenant provided written notice that she would be vacating the rental unit as of May 31, 2015. I also accept the undisputed testimony of the landlord that he has suffered a loss of rent of \$1,000 for June 2015 and \$1,000 for July 2015. Given the above, **I find** the landlord has met the burden of proof and has established a monetary claim in the amount of \$2,500 comprised of \$500 in unpaid rent for May 2015, \$1,000 for loss of June 2015 rent, and \$1,000 for loss of July 2015 rent. **I find** the landlord's application did have merit. Therefore, **I grant** the landlord recovery of the filing fee in the amount of **\$50**.

The tenant's security deposit of \$500 has accrued no interest since the start of the tenancy, which the landlord continues to hold.

**I find** that the landlord has established a total monetary claim of **\$2,550** consisting of \$500 in unpaid rent, \$2000 for loss of rent, plus the \$50.00 filing fee. **I ORDER** the landlord to retain the tenant's full security deposit of \$500 in partial satisfaction of the landlord's monetary claim. **I grant** the landlord a monetary order pursuant to section 67 of the *Act*, for the balance owing in the amount of **\$2,050**.

#### Conclusion

The landlord has been granted an order of possession effective two (2) days after service on the tenant. This order must be served on the tenant and may be enforced in the Supreme Court of British Columbia.

The landlord has been granted a monetary order pursuant to section 67 of the *Act*, for the balance owing in the amount of \$2,050. This order must be served on the tenant and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

This decision 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: July 14, 2015

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Residential Tenancy Branch

