



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, FF

### Introduction

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for orders as follows:

- an Order of Possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67; and
- to recover the filing fee for the cost of this application pursuant to section 72.

The tenant did not attend although the 9:30 a.m. hearing continued until 9:49 a.m. The landlord was given full opportunity to be heard, to present evidence and to make submissions. The landlord provided evidence that a 10 Day Notice to End Tenancy for Unpaid Rent was served to the tenant on June 4, 2015 by posting it on the rental unit door. The landlord gave sworn testimony that she served the tenant with the Application for Dispute Resolution hearing package on June 19, 2015 by registered mail. She provided a Canada Post receipt and tracking number for this mailing. Based on the testimony and documentary evidence provided by the landlord, I find that the tenant was deemed served with the 10 Day Notice on June 7, 2015 (3 days after its posting) and the tenant was deemed served with the landlord's Application for Dispute Resolution hearing package on June 24, 2015 (5 days after its mailing).

### Issue(s) to be Decided

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

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

Is the landlord entitled to recover the filing fee for this application from the tenant?

### Background and Evidence

The landlord gave evidence that the original lease for the premises began in 2000, 15 years ago. At that time, she made an oral agreement with the tenant (her daughter) to rent her one bedroom condo for \$400.00 payable on the first of each month. The

landlord did not require a security deposit but required the tenant to pay rent on the first of each month and pay hydro as well as any other utilities the tenant chose to use within the rental unit.

The landlord has applied for an Order of Possession for unpaid rent for the month of June 2015. The landlord testified that the tenant did not pay full rent of \$400.00 due on June 1, 2015. The landlord testified that, for several years now, the tenant has been unable to pay her monthly, paying sporadically. She testified, provided a written breakdown with her evidence, that the tenant has not paid rent since October 2014. She also testified that, while the tenant did pay rent in October 2014, the tenant did not pay rent in September 2014. As a result of a dispute resolution hearing in June 3, 2015, the landlord was granted a monetary order (\$2400.00) for outstanding rent. She testified that the outstanding rental arrears have not been paid and that monthly rent since this date (for July and August 2015) has not been paid by the tenant.

The landlord issued a new 10 Day Notice to End Tenancy for Unpaid Rent for June 2015 four days after the last dispute resolution hearing date. The landlord testified that the tenant did not pay the June rent or any rental arrears after receiving the 10 Day Notice on June 7, 2015. After the expiration of that 10 Day period, the landlord applied for an Order of Possession.

The landlord is also seeking a monetary award of \$3600.00 for the following months;

- September 2014; November 2014; December 2014; January 2015; February 2015; March 2015; April 2015; May 2015; June 2015;
- Added: July 2015 and August 2015.

### Analysis

The tenant failed to pay the June rent within five days of receiving the 10 Day Notice to End Tenancy. The tenant has not made 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 tenant's failure to take either of these actions within five days led to the end of his tenancy on the effective date of the notice. In this case, this required the tenant to vacate the premises by June 17, 2015. As that has not occurred, I find that the landlord is entitled to a 2 day Order of Possession.

As the landlord has been awarded \$2400.00 as a result of a previous hearing to reflect September 2014 up to June 2015, I decline to issue a further award with respect to those months. However, I find that the landlord is entitled to receive an order for unpaid rent in the amount of \$800.00 for July 2015 and August 2015. The landlord provided

sworn and undisputed testimony that, after the issuance of the 10 Day Notice, the tenant has continued to fail to pay any rent amount or arrears. I accept this uncontested evidence offered by the landlord. I am issuing the attached monetary order that includes the two, unpaid months since the last hearing: July and August 2015.

The landlord testified that she does not hold a security deposit.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$50.00 filing fee paid for this application.

### Conclusion

I grant the landlord an Order of Possession to be effective two days after notice is served to the tenant. If the tenant does not vacate the rental unit within the 2 days required, the landlord may enforce this Order in the Supreme Court of British Columbia.

I issue a monetary Order in favour of the landlords as follows:

| Item  | Amount          |
|---|-----------------|
| Unpaid Rent – July and August 2015          | \$800.00        |
| Recovery of Filing Fee for this application | 50.00           |
| <b>Total Monetary Award</b>                 | <b>\$850.00</b> |

The landlord is provided with these formal Orders in the above terms. Should the tenant(s) fail to comply with these Orders, these Orders may be filed and enforced as Orders of the Provincial Court of British Columbia.

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: August 18, 2015

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Residential Tenancy Branch