



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC, CNR, MNSD, OLC, FF, OPR, OPC, MNR

### Introduction

This hearing was convened in response to an application by the Tenant and an application by the Landlord pursuant to the *Residential Tenancy Act* (the "Act").

The Tenant applied on November 13, 2015 for:

1. An Order cancelling two notices to end tenancy - Sections 46 and 47;
2. An Order for the Landlord to comply - Section 62;
3. An Order for the return of the security deposit - Section 38; and
4. An Order to recover the filing fee for this application - Section 72.

The Landlord applied on November 19, 2015 for:

1. An Order of Possession - Section 55;
2. An Order for unpaid rent or utilities - Section 67;
3. An Order to retain the security deposit - Section 38; and
4. An Order to recover the filing fee for this application - Section 72.

The Tenant did not appear at the hearing. I accept the Landlord's evidence that the Tenant was served with the application for dispute resolution and notice of hearing by registered mail in accordance with Section 89 of the Act. As the Tenant did not attend the hearing to pursue its own application the Tenant's application is dismissed. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

### Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession?

Is the Landlord entitled to unpaid rent or utilities?

### Background and Evidence

The tenancy started in December 2014. Although there is a written tenancy agreement the Landlord did not provide a copy. Rent of \$1,050.00 is payable monthly on the first day of each month. At the outset of the tenancy the Landlord collected \$575.00 as a security deposit. The Tenant owed arrears of \$267.00 and failed to pay rent for November 2015 and on November 9, 2015 the Landlord served the Tenant with a 10 day notice for unpaid rent (the "Notice") by posting the Notice on the door of the unit. The Tenant has paid no further rent to the Landlord and has not moved out of the unit.

### Analysis

Section 55(1) provides that if a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, an order of possession must be granted to the landlord if, the notice to end tenancy complies in form and content and the tenant's application is dismissed or the landlord's notice is upheld. As the Tenant's application has been dismissed I find that the Landlord is entitled to an order of possession.

Section 26 of the Act provides that a tenant must pay the rent when and as provided under the tenancy agreement. Based on the Landlord's oral and supported evidence I find that the Landlord has substantiated that the Tenant failed to pay rent as required. Although the Landlord did not amend its application to claim more than unpaid rent to the date of the application I find that it would be reasonable to accept a claim for further unpaid rent continuing from the date of the application. As such I find that the Landlord is entitled to rental arrears of **\$2,892.00** to January 15, 2016. No evidence was provided to support the claim for internet such as a copy of the tenancy agreement or oral evidence of the placement of such provision within the tenancy agreement. Further the application did not provide any particulars of a claim for internet usage such as a monetary order worksheet. I therefore find that the Landlord has failed to substantiate an additional monetary amount and I dismiss it. As the Landlord has been successful with its application I find that the Landlord is entitled to recovery of the **\$50.00** filing fee

for a total entitlement of **\$2,942.00**. Deducting the security deposit plus zero interest of **\$575.00** leaves **\$2,367.00** owed by the Tenant to the Landlord.

Conclusion

**I grant** an Order of Possession to the Landlord. The Tenant must be served with this **Order of Possession**. Should the Tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

**I order** that the Landlord retain the **deposit** and interest of \$575.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the balance due of **\$2,367.00**. If necessary, this order may be filed in the 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: January 13, 2016

---

Residential Tenancy Branch

