



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPR, MNR, FF

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the 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 recover her filing fee for this application from the tenant pursuant to section 72.

Both parties attended the hearing via conference call and provided undisputed affirmed testimony. The landlord stated that the tenants were both served with the notice of hearing package and 1 of the 3 submitted documentary evidence packages via Canada Post Registered Mail on March 20, 2016. The tenants both confirmed receipt of the notice of hearing package and 1 documentary evidence package. Both tenants confirmed that no documentary evidence was submitted for the hearing. I accept the undisputed affirmed evidence of both parties and find that the landlord has properly served both the tenants with the notice of hearing package and the 1<sup>st</sup> submitted documentary evidence as per sections 88 and 89 of the Act.

The landlord has confirmed that neither of the 2<sup>nd</sup> or the 3<sup>rd</sup> documentary evidence was served to the tenants. These 2 documentary evidence packages are excluded from the hearing as I find that the landlord has failed to properly serve these packages to the tenant as per sections 88 and 89 of the Act.

During the hearing the landlord clarified that the monetary claim was for unpaid rent, for unpaid utilities and money owed for interest charges for utilities.

### Issue(s) to be Decided

Is the landlord entitled to an order of possession for unpaid rent, utilities, money owed or compensation for loss?

Is the landlord entitled to a monetary order for unpaid rent, utilities and money owed or compensation for loss and recovery of the filing fee?

### Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

This tenancy began on August 15, 2011 on a fixed term tenancy ending on September 30, 2013 and then thereafter on a month-to-month basis as shown by the submitted copy of the signed tenancy agreement dated August 18, 2011.

The landlord seeks an order of possession and a monetary claim for unpaid rent, utilities and money owed for interest charges for the unpaid utilities. The monetary claim of \$11,016.07 consists of:

\$359.91	Utilities-water, December 23, 2015
\$35.69	Utilities-water, November 5, 2015
\$776.36	Utilities-water, March 1, 2015
\$967.44	Utilities-water, March 1, 2014
\$942.91	Utilities-water, March 1, 2013
\$137.13	Utilities-water, March 1, 2012
\$3,219.44	Total Unpaid Utilities
\$401.95	Interest Charges, Unpaid Utilities-water
\$400.00	Unpaid Rent, March 2016
\$400.00	Unpaid Rent, February 2016
\$400.00	Unpaid Rent, January 2016
\$400.00	Unpaid Rent, December 2015
\$400.00	Unpaid Rent, November 2015
\$400.00	Unpaid Rent, October 2015
\$400.00	Unpaid Rent, September 2015
\$400.00	Unpaid Rent, August 2015
\$400.00	Unpaid Rent, July 2015
\$400.00	Unpaid Rent, June 2015

\$400.00	Unpaid Rent, May 2015
\$400.00	Unpaid Rent, April 2015
\$400.00	Unpaid Rent, March 2015
\$400.00	Unpaid Rent, February 2015
\$400.00	Unpaid Rent, January 2015
\$400.00	Unpaid Rent, December 2014
\$400.00	Unpaid Rent, November 2014
\$400.00	Unpaid Rent, October 2014
\$400.00	Unpaid Rent, September 2014

\$7,600.00    Total Unpaid Rent

\$11,221.39    Total Unpaid Rent, Utilities and Interest Charges

The landlord clarified during the hearing that although the monetary worksheet total amounts were different, but would continue the claims based upon the amount filed on the application for dispute of \$11,016.07.

The landlord stated that the tenants were served with the 10 Day Notice to End Tenancy for Unpaid Rent and Utilities (the 10 Day Notice) dated March 3, 2016 by Canada Post Registered Mail on March 3, 2016. The landlord has provided a copy of the Canada Post Customer Receipt Tracking number as confirmation. The landlord provided evidence that the tenant received the package from Canada Post on March 9, 2016 and has provided a copy of the online search of the Canada Post Website showing a signature in receipt of the package as B.P.

The landlord has also provided in support of the application:

- A copy of the demand letter dated January 26, 2016 for utility-water bills and interest.
- A copy of a two page spreadsheet detailing the unpaid rent, utilities and interest charges.
- 9 pages of letters and statements for unpaid utilities-water from the local municipality.
- 4 pages of interact e-Transfer payments made by the tenant to the landlord.
- A copy of the signed tenancy agreement which shows that the tenant is responsible for payment of water, electricity and heat as part of the tenancy.

Both tenants confirmed receipt of the 10 Day Notice dated March 3, 2016. Both tenants confirmed that the monetary amounts claimed by the landlord are not being disputed.

### Analysis

Pursuant to section 46 of the Act, a landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end tenancy effective on a date that is not earlier than ten days after the date the tenant receives the notice.

The tenants have both confirmed receiving the 10 Day Notice and not filing an application for dispute resolution as the tenants both confirmed that rent and utilities have not been paid as claimed by the landlord.

The tenants failed to pay the outstanding rent and utilities within five days of receiving the 10 Day Notice. The tenants have not made application pursuant to subsection 46(4) of the Act within five days of receiving the 10 Day Notice. In accordance with subsection 46(5) of the Act, the tenants' failure to take either of these actions within five days led to the end of this tenancy on the effective date of the notice. In this case, this required the tenant to vacate the premises by March 19, 2016. As that has not occurred, I find that the landlord is entitled to a two-day order of possession.

The landlord has provided affirmed and uncontested testimony that the tenants have unpaid rental arrears and unpaid utilities totaling \$11,016.07. I find that the landlord has proven her entitlement to the claims filed. The landlord is entitled to a monetary order \$11,016.07.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee paid for this application.

### Conclusion

I issue a monetary order in the landlord's favour in the amount of \$11,116.07. The landlord is provided with this order in the above terms and the tenant(s) must be served with these orders as soon as possible. Should the tenant(s) 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.

The landlord is provided with a formal copy of an order of possession. Should the tenant(s) fail to comply with this order, this order may be filed and enforced as an order of the Supreme 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: April 29, 2016

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Residential Tenancy Branch