



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 0946401 BC LTD  
and [tenant name suppressed to protect privacy]

## **DECISION**

### **Dispute Codes:**

**OPR, MNR, MNSD, FF**

### **Introduction**

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has requested an Order of possession for unpaid rent, a monetary Order for unpaid rent, to retain the security deposit and to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained and the parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present affirmed oral testimony and to make submissions during the hearing. I have considered all of the evidence and testimony provided.

### **Issue(s) to be Decided**

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

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

May the landlord retain the security deposit paid by the tenant?

### **Background and Evidence**

The tenancy commenced on April 1, 2016. Rent is \$625.00 due on the first day of each month. The landlord is holding a security deposit in the sum of \$312.50.

The tenant confirmed that on June 2, 2016 he received a ten day Notice ending tenancy for unpaid rent or utilities, which had an effective date of June 12, 2016.

The Notice indicated that the Notice would be automatically cancelled if the landlord received \$625.00 within five days after the tenant was assumed to have received the Notice. The Notice also indicated that the tenant was presumed to have accepted that

the tenancy was ending and that the tenant must move out of the rental by the date set out in the Notice unless the tenant filed an Application for Dispute Resolution within five days.

The tenant confirmed that he has not paid June or July 2016 rent in the sum of \$1,250.00. The tenant said he would vacate the rental unit on Friday, July 29, 2016.

The landlord wished to claim unpaid July 2016 rent; the application requested only June rent. Section 4.2 of the Residential Tenancy Branch Rules of Procedure provides:

***4.2 Amending an application at the hearing***

*In circumstances that can reasonably be anticipated, such as when the amount of rent owing has increased since the time the Application for Dispute Resolution was made, the application may be amended at the hearing.*

Therefore, during the hearing the application was amended to include unpaid July 2016 rent in the sum of \$625.00, as rent is the most basic term of a tenancy.

Analysis

I find that the tenant was served with a Notice ending tenancy on June 2, 2016; the date the tenant confirmed he received the Notice.

Section 46 of the Act stipulates that a tenant has five days from the date of receiving the Notice ending tenancy to either pay the outstanding rent or to file an Application for Dispute Resolution to dispute the Notice. The tenant did not pay the rent and did not dispute the Notice. Therefore, pursuant to section 46(5) of the Act, I find that the tenant accepted that the tenancy has ended on the effective date of the Notice; June 12, 2016.

In the absence of evidence to the contrary, I find that the tenant has not paid rent and per diem rent in the amount of \$1,250.00 for June and July 2016 and that the landlord is entitled to compensation in that amount.

As the landlords' claim has merit I find, pursuant to section 72 of the Act that the landlord is entitled to recover the \$100.00 filing fee from the tenant for the cost of this Application for Dispute Resolution.

Pursuant to section 72 of the Act, I find that the landlord is entitled to retain the \$312.50 security deposit in partial satisfaction of the claim.

The landlord has been granted an Order of possession that is effective Friday July 29, 2016 at 1:00 p.m. This Order may be served on the tenant, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

Based on these determinations I grant the landlord a monetary Order for the balance of \$1,037.50. In the event that the tenant does not comply with this Order, it may be

served on the tenant, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

Conclusion

The landlord is entitled to an Order of possession and monetary Order for unpaid rent.

The landlord may retain the security deposit.

The landlord is entitled to filing fee costs.

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 25, 2016

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Residential Tenancy Branch

