



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding VANCOUVER EVICTION SERVICES  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, OPC, OPL, MNR, MNDC, MNSD, FF

### Introduction

This hearing dealt with the landlords' application pursuant to the *Residential Tenancy Act* ("Act") for:

- an Order of Possession for unpaid rent, for cause and for landlords' use of property, pursuant to section 55;
- a monetary order for unpaid rent and for money owed or compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement, pursuant to section 67;
- authorization to retain the tenant's security deposit in partial satisfaction of the monetary order requested, pursuant to section 38; and
- authorization to recover the filing fee for this application, pursuant to section 72 .

The tenant did not attend this hearing, which lasted approximately 8 minutes. The landlords' agent, SA ("landlord") attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord confirmed that she had authority to speak on behalf of both landlords named in this application at this hearing.

The landlord testified that the tenant was served with the landlords' application for dispute resolution hearing package on July 11, 2016, by way of registered mail. The landlords provided a Canada Post receipt and tracking number with their application. In accordance with sections 89 and 90 of the *Act*, I find that the tenant was deemed served with the landlords' application on July 16, 2016, five days after its registered mailing.

The landlord testified that the tenant was served with the landlords' 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated June 16, 2016 ("10 Day Notice"), on the same date by way of posting to the rental unit door. In accordance with sections 88 and 90 of the *Act*, I find that the tenant was deemed served with the landlords' 10 Day Notice on June 19, 2016, three days after its posting.

During the hearing, the landlord confirmed that she did not want to pursue the landlords' application for an order of possession for cause or for landlords' use of property. Accordingly, these portions of the landlords' application are withdrawn.

### Issues to be Decided

Are the landlords entitled to an Order of Possession for unpaid rent?

Are the landlords entitled to a monetary award for unpaid rent and for money owed or compensation for damage or loss under the *Act*, *Regulation* or tenancy agreement?

Are the landlords entitled to retain the tenant's security deposit in partial satisfaction of the monetary order requested?

Are the landlords entitled to recover the filing fee for this application?

### Background and Evidence

The landlord testified regarding the following facts. The individual landlord named in this application assumed this tenancy when he purchased the rental unit in June 2016. This month-to-month tenancy began approximately two years ago with the former landlord. Monthly rent in the amount of \$650.00 is payable on the first day of each month. A security deposit of \$325.00 was received from the former landlord and the current landlords continue to retain this deposit. The tenant continues to reside in the rental unit.

The landlords issued a 10 Day Notice for unpaid rent of \$650.00 due on June 1, 2016. The notice indicates an effective move-out date of June 26, 2016. The notice states that the tenant failed to pay rent of \$650.00 for June 2016. The landlord said that the tenant has not paid rent of \$650.00 from June to August 2016. The landlord seeks a monetary order of \$1,950.00 for the above period as well as recovery of the \$100.00 filing fee.

### Analysis

The landlord provided undisputed evidence at this hearing, as the tenant did not attend. The tenant failed to pay the full rent due on June 1, 2016, within five days of being deemed to have received the 10 Day Notice. The tenant has not made an application pursuant to section 46(4) of the *Act* within five days of being deemed to have received the 10 Day Notice. In accordance with section 46(5) of the *Act*, the failure of the tenant to take either of the above actions within five days led to the end of this tenancy on June 29, 2016, the corrected effective date on the 10 Day Notice. In this case, this required the tenant and anyone on the premises to vacate the premises by June 29, 2016. As this has not occurred, I find that the landlords are entitled to a two (2) day Order of Possession, pursuant to section 55 of the *Act*. I find that the landlords' 10 Day Notice complies with section 52 of the *Act*.

Section 7(1) of the *Act* establishes that a tenant who does not comply with the *Act*, *Regulation* or tenancy agreement must compensate the landlords for damage or loss that results from that failure to comply. However, section 7(2) of the *Act* places a responsibility on landlords claiming compensation for loss resulting from a tenant's non-compliance with the *Act* to do whatever is reasonable to minimize that loss.

The landlords provided undisputed evidence that the tenant failed to pay rent of \$650.00 for each month from June to August 2016, inclusive. Therefore, I find that the landlord is entitled to \$1,950.00 in rental arrears for the above period.

As the landlords were successful in this application, I find that they are entitled to recover the \$100.00 filing fee.

The landlords continue to hold the tenant's security deposit of \$325.00. Over the period of this tenancy, no interest is payable on the deposit. In accordance with the offsetting provisions of section 72 of the *Act*, I order the landlords to retain the tenant's security deposit of \$325.00 in partial satisfaction of the monetary claim.

### Conclusion

I grant an Order of Possession to the landlords effective **two (2) days after service on the tenant**. Should the tenant or anyone on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I order the landlords to retain the tenant's security deposit of \$325.00 in partial satisfaction of the monetary claim.

I issue a monetary order in the landlords' favour in the amount of \$1,725.00 against the tenant. The tenant must be served with this Order as soon as possible. Should the tenant 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 landlords' application for an order of possession for cause and for landlords' use of property is withdrawn.

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 23, 2016

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Residential Tenancy Branch