



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 0838436 B.C. LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MNR, MND, MNSD, MNDC, FF

### Introduction

This hearing was convened by way of conference call in response to the landlord's application for an Order of Possession for unpaid rent; for a Monetary Order for unpaid rent; a Monetary Order for damage to the unit, site or property; for an Order permitting the landlord to keep all or part of the tenant's security deposit; for a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act* (*Act*), regulations or tenancy agreement; and to recover the filing fee from the tenant for the cost of this application.

At the outset of the hearing the landlord advised that the tenant is no longer residing in the rental unit, and therefore, the landlord withdraws the application for an Order of Possession. The landlord also advised that he wants to withdraw his application for a Monetary Order for damage to the unit, site or property and for a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act* (*Act*), regulations or tenancy agreement at this time. As the landlord has withdrawn these sections for a Monetary Order the landlord is at liberty to reapply.

Service of the hearing documents, by the landlord to the tenant, was done in accordance with section 89 of the *Act*; served by registered mail on March 09, 2017. Canada Post tracking numbers were provided by the landlord in documentary evidence. The Canada Post web site shows the tenant signed for these documents on March 10, 2017. The tenant was deemed to be served the hearing documents on this date.

The landlord appeared, gave sworn testimony, was provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the tenant, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

#### Issue(s) to be Decided

- Is the landlord entitled to a Monetary Order to recover unpaid rent?
- Is the landlord permitted to keep all or part of the security deposit?

#### Background and Evidence

The landlord testified that this month to month tenancy started on August 01, 2014. Rent for this unit is \$920.00 per month due on the 1<sup>st</sup> of each month. The tenant paid a security deposit of \$500.00 on July 29, 2014.

The landlord testified that the tenant failed to pay rent for December, 2016 of \$920.00. The tenant also failed to pay rent for January, 2017 of \$920.00. The landlord served the tenant with a 10 Day Notice to End Tenancy for unpaid rent or utilities (the Notice) on January 06, 2017. This Notice was posted to the tenant's door and had an effective date of January 16, 2017. A copy of the Notice has been provided in documentary evidence.

The landlord testified that no rent was received from the tenant. Furthermore the tenant did not vacate the rental unit on January 16, 2017 and continued to reside in the unit until sometime around February 10, 2017. At that time the landlord was not aware of the tenant had vacated as he had not informed the landlord he was leaving. No rent was paid for February, 2017. The total amount of unpaid rent is now \$2,760.00. The landlord seeks to recover this from the tenant.

The landlord requested an Order to be permitted to apply the security deposit to the unpaid rent. The landlord also seeks to recover the filing fee of \$100.00.

Analysis

After careful consideration of the testimony and documentary evidence before me and on a balance of probabilities I find as follows:

With regard to the landlord's claim for unpaid rent; I refer the parties to s. 26 of the Act which states:

*26. A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.*

I refer the parties to the Residential Tenancy Policy Guidelines that states:

*In a month to month tenancy, if the tenancy is ended by the landlord for non-payment of rent, the landlord may recover any loss of rent suffered for the next month as a notice given by the tenant during the month would not end the tenancy until the end of the subsequent month.*

I am satisfied from undisputed evidence before me that the tenant has failed to pay rent for December, 2016 and January, 2017. I am also satisfied that the tenant failed to pay rent for February and did not vacate the rental unit in accordance with the effective date of the Notice. The landlord is therefore entitled to recover a full month's rent for February, 2017. The landlord is therefore entitled to recover the amount of **\$2,760.00**.

I Order the landlord to keep the security deposit in partial satisfaction of this claim pursuant to s. 38(4)(b) of the *Act*.

As the landlord's amended application has merit I find the landlord is entitled to recover the filing fee of **\$100.00** pursuant to s. 72(1) of the *Act*. A Monetary Order will be issued to the landlord pursuant to s. 67 of the *Act* as follows:

Unpaid rent for three months	\$2760.00
Filing fee	\$100.00
Less security deposit	(-\$500.00)
<b>Total amount due to the landlord</b>	<b>\$2,360.00</b>

### Conclusion

I HEREBY FIND in favor of the landlord's amended monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$2,360.00**. The Order must be served on the respondent. Should the respondent fail to comply with the Order, the Order may be enforced through the Provincial (Small Claims) Court of British Columbia 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: April 05, 2017

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Residential Tenancy Branch