



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute codes OPR, MNR, MNSD,

### Introduction

This was the landlord's application for an order of possession for unpaid rent, a monetary order for unpaid rent, and authorization to recover the application filing fee.

The tenant did not attend the hearing. The individual landlord attended and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

As the tenant did not attend the hearing, service of the landlord's application and the notice of hearing were considered. The landlord provided affirmed testimony that she personally handed these materials to the tenant on March 22, 2017. A letter from a third party confirming this was submitted in evidence. Based on that letter and the landlord's testimony I accept that the tenant was served in accordance with the Act.

### Issues to be Decided

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

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

Is the landlord entitled to retain the security or pet damage deposit in partial satisfaction of any monetary order for unpaid rent?

### Background and Evidence

There is no written tenancy agreement. The landlord testified that the tenancy began in April, 2016 with a monthly rent of \$900.00 payable on the first day of each month. A security deposit and a pet damage deposit of \$450.00 each were paid at the beginning of the tenancy and remain in the landlord's possession.

The landlord testified that the tenant failed to pay all of the rent due on March 1, 2017. She further testified that she served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated March 11, 2017 (the "10 Day Notice"), on this same day by posting it on the door of the rental unit. The 10 Day Notice indicates that the tenant owes \$900.00 as of that date.

The landlord also testified that the tenant confirmed she had received the 10 Day Notice on that same day when she spoke with the landlord. The landlord advised that she made a mistake by indicating on her application that the tenant was served with the 10 Day Notice on March 22, 2017. Based on the landlord's undisputed testimony, I find that the tenant was served with the 10 Day Notice on March 11, 2017.

The landlord testified that the tenant did not pay the full amount owing within five days of being served. Although the tenant paid March rent, she did not do so until March 29, 2017. The landlord stated under oath that \$580.00 remains outstanding for April's rent. The landlord does not believe that the tenant has filed an application to dispute the 10 Day Notice.

### Analysis

The landlord provided undisputed evidence at this hearing, as the tenant did not attend. It is clear that the tenant failed to pay the rent due on March 1, 2017 and also failed to pay the amount outstanding within five days of receipt of the 10 Day Notice. The tenant has not made an application pursuant to section 46(4) of the Act within five days of receipt of the 10 Day Notice.

In accordance with section 46(5), the failure of the tenant to take either of the above actions within five days led to the end of this tenancy on March 21, 2017, the effective date on the 10 Day Notice. The tenant and anyone on the premises were required to vacate the premises by March 21, 2017. As this has not occurred, I find that the landlord is entitled to a two (2) day order of possession, pursuant to s. 55 of the Act. I find that the landlord's 10 Day Notice complies with s.52 of the Act.

Sections 7(1) and 67 establish that a tenant who does not comply with the Act, Regulation or tenancy agreement must compensate the landlord for damage or loss that results from that failure to comply.

The landlord provided undisputed evidence that the tenant owes \$580.00 for April. I therefore find that the landlord is entitled to \$580.00 in rental arrears or loss of rental income.

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

The landlord continues to hold the tenant's security deposit and pet damage deposit in the total amount of \$900.00. Over the period of this tenancy, no interest is payable on the deposits. In accordance with the offsetting provisions of s. 72 of the Act, I authorize and order the landlord to retain the whole of the tenant's \$450.00 pet damage deposit and \$230.00 of the tenant's \$450.00 security deposit, in full satisfaction of the monetary claim of **\$680.00** (\$580.00 unpaid rent + \$100.00 filing fee). The balance of the security deposit must be dealt with in accordance with the Act.

### Conclusion

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

I authorize to retain **\$680.00** of the \$900.00 in deposits as set out above in full satisfaction of the landlord's monetary claim. The balance of the security deposit must be dealt with in accordance with the Act.

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*. Pursuant to s. 77 of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: April 26, 2017

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Residential Tenancy Branch