



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      Landlord:    OPR   MNR  
                         Tenant:        CNR   O   FF

### Introduction

This hearing dealt with cross Applications for Dispute Resolution filed by the parties under the *Residential Tenancy Act* (the “*Act*”).

The Landlords’ Application, received at the Residential Tenancy Branch on May 12, 2017, was amended by an Amendment to an Application for Dispute Resolution, received at the Residential Tenancy Branch on May 29, 2017 (the “Landlords’ Application”). The Landlords applied for the following relief pursuant to the *Act*:

- an order of possession for unpaid rent or utilities;
- a monetary order for unpaid rent or utilities; and
- a monetary order for money owed or compensation for damage or loss.

The Tenant’s Application is dated May 9, 2017 (the “Tenant’s Application”). The Tenant applied for the following relief pursuant to the *Act*:

- an order cancelling a notice to end tenancy for unpaid rent or utilities;
- an order granting recovery of the filing fee; and
- other unspecified relief.

The Landlords both attended the hearing, as did the Tenant. All parties giving oral testimony provided a solemn affirmation.

The Landlords testified their Application package was served on the Tenant, in person, on May 12, 2017. The Tenant stated it was given to an adult in the rental unit but acknowledged receipt. I find the Landlords' Application package was received by the Tenant on that date. The Landlords also submitted further documentary evidence, which was served on the Tenant by registered mail on May 29, 2017. The Tenant again acknowledged receipt.

The Tenant testified her Application package was served on the Landlords, in person, on May 16 or 17, 2017. She confirmed it was served within three days after she received it from the Residential Tenancy Branch. The Landlords acknowledged receipt.

No further issues were raised with respect to service or receipt of the above documents. The parties were provided with the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issues

1. Are the Landlords entitled to an order of possession based on a notice to end tenancy for unpaid rent or utilities?
2. Are the Landlords entitled to a monetary order for unpaid rent or utilities?
3. Is the Tenant entitled to an order cancelling a notice to end tenancy for unpaid rent or utilities?

### Background and Evidence

The Landlord submitted into evidence a copy of the tenancy agreement between the parties. It confirms a fixed-term tenancy began on August 15, 2016, and was to end on August 31, 2017. Rent in the amount of \$1,800.00 per month was due on the first day of each month. The Tenant paid a security deposit of \$900.00, which the Landlord holds.

The Landlords testified the Tenant did not pay rent when due on May 1, 2017. Accordingly, they issued a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated May 5, 2017 (the "10 Day Notice"). The Landlords testified the 10 Day Notice was served on the Tenant, in person, on May 5, 2017. The Tenant's Application confirms receipt on that date. The Landlords further testified that rent was not paid when due on June 1, 2017, and that rent in the amount of \$3,600.00 currently remains unpaid.

In reply, the Tenant acknowledged she owes rent to the Landlords as alleged. However, she stated she lost her job due in part to the living conditions at the rental unit, and confirmed she intends to vacate the rental unit on June 24, 2017.

### Analysis

Based on all of the above, the evidence and testimony, and on a balance of probabilities, I find as follows.

Section 26 of the *Act* confirms that a tenant must pay rent when it is due unless the tenant has a right under the *Act* to deduct all or a portion of rent. When a tenant does not pay rent when due, section 46 of the *Act* permits a landlord to end the tenancy by issuing a notice to end tenancy. A tenant who receives a notice to end tenancy under this section has five days to either pay rent or file an application for dispute resolution. When a tenant does not pay rent or file an application for dispute resolution, the tenant is conclusively presumed to have accepted the tenancy ends on the effective date of the notice. In this case, I find the 10 Day Notice was served on and received by the Tenant on May 5, 2017. The Tenant disputed the 10 Day Notice within the timeframe permitted under the *Act*. However, I find the Tenant did not pay rent when due on May 1 and June 1, 2017, and that rent in the amount of \$3,600.00 remains outstanding.

As the Tenant did not pay rent when due, I find the Landlords are entitled to an order of possession, which will be effective two (2) days after service on the Tenant.

As I have found that rent in the amount of \$3,600.00 is outstanding, I find the Landlord is entitled to a monetary award in that amount. Having been successful, the Landlord is also entitled to recover the filing fee paid to make the Landlords' Application. Pursuant to section 67 of the *Act*, I grant the Landlord a monetary order in the amount of \$3,700.00, which is comprised of \$3,600.00 in unpaid rent and \$100.00 as recovery of the filing fee.

The Tenant's Application is dismissed.

Conclusion

The Landlord is granted an order of possession, which will be effective two (2) days after service on the Tenant. The order of possession may be filed in and enforced as an order of the Supreme Court of British Columbia.

The Landlord is granted a monetary order in the amount of \$3,700.00. The monetary order may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

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: June 20, 2017

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Residential Tenancy Branch