



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute codes      OPR, MNR

### Introduction

This participatory hearing was convened after the issuance of a September 29, 2017, interim decision by an Adjudicator. The Adjudicator determined that the landlord's application could not be considered by way of the Residential Tenancy Branch's (RTB) direct request proceedings, as had been originally requested by the landlord. Pursuant to section 58 of the *Residential Tenancy Act* (the *Act*), I was designated to hear this matter. The Adjudicator reconvened the landlord's application to a participatory hearing for the following:

- an Order of Possession for unpaid rent pursuant to sections 46 and 55 of the *Act*, and
- a monetary order for unpaid rent pursuant to section 67 of the *Act*.

The landlord's agent R.A. (the landlord) and the tenant attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another.

### Issues(s) 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?

### Analysis

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During this hearing, the parties reached an agreement to settle their dispute.

Both parties agreed to the following terms of a final and binding resolution of the landlord's application and the issues in dispute arising out of this tenancy at this time and that they did so of their own free volition and without any element of coercion:

1. The tenant agreed to pay to the landlord \$9,750.00 in outstanding rent for May 2017, June 2017, July 2017, August 2017, September 2017, October 2017 and November 2017.
2. The tenant agreed to pay \$659.56 in outstanding utilities for February 2017 and July 2017.
3. The tenant agreed to allow the landlord to retain their security deposit in the amount of \$720.00 in partial satisfaction of the total monetary award listed in Clause 1 and Clause 2.
4. All parties agreed that this tenancy will end by 1:00 p.m. on December 10, 2017, by which time the tenant agreed to deliver full and peaceable vacant possession to the landlord on the basis of the 10 Day Notice for Unpaid Rent or Utilities dated August 18, 2017, which was personally handed to the tenant on August 18, 2017.
5. Both parties agreed that these particulars comprise the full settlement of all aspects of the landlord's current application arising out of the 10 Day Notice issued on August 18, 2017.

### Conclusion

In order to implement the above settlement reached between the parties, and as discussed at the hearing, I grant an Order of Possession to the landlord effective **on December 10, 2017, after service of this Order** on the tenant. Should the tenant or any occupant 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.

In order to implement the above monetary settlement reached between the parties and in accordance with section 67 of the *Act*, I grant a monetary Order in the landlord's favour, under the following terms which allows the tenant to recover unpaid rent, recover unpaid utilities and retain the tenant's security deposit:

<b>Item</b>	<b>Amount</b>
Unpaid Utilities owed February 2017	\$203.02
Unpaid May 2017 Rent	1,050.00
Unpaid June 2017 Rent	1,450.00
Unpaid July 2017 Rent	1,450.00
Unpaid Utilities owed July 2017	456.54
Unpaid August 2017 Rent	1,450.00
Unpaid September 2017 Rent	1,450.00
Unpaid October 2017 Rent	1,450.00
Unpaid November 2017 Rent	1,450.00
Less Security Deposit	-720.00
<b>Total Monetary Order</b>	<b>\$9,689.56</b>

The landlord is provided with these Orders in the above terms and the tenant must be served with a copy of these Orders as soon as possible. Should the tenant fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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: December 07, 2017

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Residential Tenancy Branch