



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNRL, OPU, FFL

### Introduction

This teleconference hearing was scheduled in response to an application by the Landlord under the *Residential Tenancy Act* (the “*Act*”) for a Monetary Order for unpaid rent and utilities, an Order of Possession based on a 10 Day Notice to End Tenancy for Unpaid Rent and/or Utilities (the “10 Day Notice”), and for the recovery of the filing fee paid for this application.

The Landlord was present for the teleconference hearing, while no one called in for the Tenant during the approximately 23-minute hearing. As the Tenant was not present, service of the Notice of Dispute Resolution Proceeding package (the “Notice of Hearing”) was addressed.

The Landlord provided affirmed testimony that the Notice of Hearing documents, along with the Landlord’s evidence package was sent to the Tenant by registered mail and returned to the Landlord as “unclaimed”. I accept that the documents were duly served in accordance with the *Act*, despite being unclaimed. I also note that not accepting or not claiming mail is not a ground for review under the *Act*.

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 to be Decided

Is the Landlord entitled to a Monetary Order for unpaid rent and/or utilities?

Is the Landlord entitled to an Order of Possession based on a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities?

Is the Landlord entitled to the recovery of the filing fee paid for the Application for Dispute Resolution?

### Background and Evidence

The Landlord provided affirmed and undisputed testimony regarding the tenancy. The tenancy began on November 15, 2017. Rent in the amount of \$1,450.00 is due on the 15<sup>th</sup> day of each month. A security deposit in the amount of \$725.00 was paid at the outset of the tenancy.

The Landlord testified that the Tenant is responsible for all of the utilities for the rental unit. The tenancy agreement was submitted in evidence and the addendum states that the Tenant will pay 100% of utilities. The addendum was initialled by both parties on November 15, 2018.

The Landlord testified that the arrangements for payment of the utilities was that the bill would be sent to both the Landlord as well as the Tenant, and the Tenant would pay the full bill. The Landlord submitted two invoices into evidence from the municipality for water, sewer and garbage/organics collection.

The Landlord stated that the Tenant often paid the rent late, but it was paid in full until May 2018 when the rent was not paid at all. Rent for May, June and July 2018 remains unpaid.

On May 17, 2018, the Landlord issued a 10 Day Notice and served both pages of the notice to the Tenant by posting on his door and also through registered mail. The Landlord stated that he has not received any payments towards the rent owing since issuing the 10 Day Notice and has also not received notice that the Tenant applied to dispute the notice.

The 10 Day Notice states that \$1,450.00 for rent was due on May 15, 2018 and \$110.00 for utilities was due. The effective end of tenancy date of the notice is May 27, 2018.

The Landlord is claiming for unpaid rent for May, June, and July 2018 for a total amount owing of \$4,350.00. The Landlord is also claiming \$306.53 in utility costs; which is calculated as the pro-rated amount owing during the period the Tenant has resided in the rental unit.

### Analysis

I accept the undisputed testimony of the Landlord that rent has not been paid for May, June and July 2018 in the amount of \$1,450.00 per month for a total owing of \$4,350.00.

I refer to Section 46(1) of the *Act* which states that a 10 Day Notice may be issued if rent is outstanding after the day it is due. I find that on May 17, 2018, rent in the amount of \$1,450.00 was outstanding and not paid when due on May 15, 2018.

I also refer to Section 46(4) of the *Act* which states that after receiving a 10 Day Notice, a tenant has five days to dispute the notice or pay the rent owing. I find no evidence before me that the Tenant paid the outstanding rent or applied to dispute the notice.

As such, and in accordance with Section 46(5), the Tenant is conclusively presumed to have accepted that the tenancy ended on the effective day of the notice, May 27, 2018.

In accordance with Section 55(2)(b), a two day Order of Possession will be issued to the Landlord.

As for the monetary claim of the Landlord, he submitted one invoice from the municipality for \$167.00 dated February 6, 2018. As this bill was for services from October to January, the Landlord stated that the Tenant owes three months of the utility bill due to moving into the rental unit in November 2018. Therefore, I find that the Tenant owes \$125.25 of this utility bill for the months of November, December and January 2018.

The second invoice from the municipality dated May 1, 2018 is for the amount of \$181.28 for services from January to April 2018, during which time the Tenant was residing in the rental unit.

I accept the undisputed testimony of the Landlord that the Tenant received these invoices for utilities and that he understood that he was responsible for paying them as noted on the tenancy agreement. As such, I find that the Tenant owes the Landlord \$306.53 for utilities.

As the Landlord was successful with this application, I award the recovery of the filing fee paid in the amount of \$100.00, pursuant to Section 72 of the *Act*.

In accordance with Section 38(4)(b), I allow the Landlord to retain the security deposit in the amount of \$725.00 towards the total compensation owed.

A Monetary Order will be issued to the Landlord in the amount outlined below.

*Monetary Order Calculations*

May 2018 rent	\$1,450.00
June 2018 rent	\$1,450.00
July 2018 rent	\$1,450.00
Utilities	\$306.53
Recovery of filing fee	\$100.00
<i>Less Security deposit</i>	<i>(\$725.00)</i>
<b>Total owing to Landlord</b>	<b>\$4,031.53</b>

Conclusion

I grant an Order of Possession to the Landlord effective **two days after service of this Order** on the Tenant. Should the Tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

Pursuant to Sections 67 and 72 of the *Act*, I grant the Landlord a **Monetary Order** in the amount of **\$4,031.53** for rent owed for May, June and July 2018, for utilities owed and for the recovery of the filing fee for this application. The Landlord is provided with this Order in the above terms and 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.

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: July 23, 2018

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Residential Tenancy Branch