



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNRL

### Introduction

This hearing was convened as a result of the landlords' application for dispute resolution under the Residential Tenancy Act (the "Act"). The landlords applied for an order of possession pursuant to a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice") issued by the landlords and a monetary order comprised of unpaid rent owed under the written tenancy agreement.

The landlords attended the telephone conference call hearing; the tenant did not attend.

The landlords testified that they served the tenant with their Application for Dispute Resolution and Notice of Hearing by leaving the documents with the tenant on April 4, 2019.

Based upon the submissions of the landlords, I accept the tenant was served notice of this hearing and the landlords' application in a manner complying with section 89(1) of the Act and the hearing proceeded in the tenant's absence. The landlords confirmed that the tenant has since vacated the rental unit and that they no longer require an order of possession. As such, I amend their application excluding the matter of possession.

The landlords were provided the opportunity to present their evidence orally and to refer to relevant documentary and digital evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral, documentary and digital evidence before me that met the requirements of the Dispute Resolution Rules of Procedure ("Rules"); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Issue(s) to be Decided

Are the landlords entitled to a monetary order comprised of unpaid rent?

Background and Evidence

The written tenancy agreement supplied by the landlord shows that this tenancy began on September 15, 2018, monthly rent payable by the tenant was \$1,100.00, with \$550.00 due on the first day of the month and \$550.00 due on the 15<sup>th</sup> day of the month, and a security deposit of \$550.00 was paid by the tenant at the beginning of the tenancy.

The landlords gave evidence that on March 20, 2019, the tenant was served with the Notice, by attaching it to the tenant's door, listing unpaid rent of \$1,750.00 owed as of March 15, 2019. The effective vacancy date listed on the Notice was March 30, 2019. The landlord acknowledged that the corrected effective date of the Notice was April 2, 2019.

The Notice sets out for the benefit of the tenant that the Notice would be cancelled if the rent was paid within five (5) days. The Notice also explained that alternatively the tenant had five days to dispute the Notice by making an application for dispute resolution.

The landlord stated that the tenant made an additional rent payment of \$860.00 since the Notice was issued and vacated the rental unit on April 15, 2019, owing rent of \$550.00 for the period of April 1-15, 2019. As of the date of the hearing, the tenant owed \$1,440.00 in unpaid rent, according to the landlords. The landlords said that they communicated with the tenant, who agreed the landlords could keep his security deposit of \$550.00 for a partial rent payment.

I have no evidence before me that the tenant applied to dispute the Notice.

Analysis

Under section 26 of the Act, a tenant is required to pay rent in accordance with the terms of the tenancy agreement and is not permitted to withhold rent without the legal right to do so. A legal right may include the landlord's consent for deduction;

authorization from an Arbitrator or expenditures incurred to make an “emergency repair”, as defined by the Act.

When a tenant fails to pay rent due pursuant to the terms of the tenancy agreement, the landlord may serve the tenant a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, as was the case here.

As such, I find the landlords submitted sufficient, unopposed evidence to prove that the tenant was served the Notice, owed the rent listed, and did not pay the outstanding rent or file an application for dispute resolution in dispute of the Notice within five days of service.

I find that the landlords submitted sufficient, unopposed evidence to prove that the tenant owes the amount of \$1,440.00 in unpaid rent through April 15, 2019, due under the tenancy agreement. I grant the landlord a monetary award in this amount, pursuant to section 67 of the Act.

I direct the landlord to retain the tenant’s security deposit of \$550.00 in partial satisfaction of their monetary award of \$1,440.00, at their request, and grant the landlords a monetary order for the balance due, in the amount of \$890.00.

The monetary order is included with the landlords’ Decision. Should the tenant fail to pay the landlords this amount without delay after being served the order, the order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an order of that Court. The tenant is advised that costs of such enforcement are recoverable from the tenant.

### Conclusion

The landlords’ application for a monetary order for unpaid rent has been granted. The landlords are directed to retain the tenant’s security deposit in partial satisfaction of their monetary award, and they have been granted a monetary order for the balance due, in the amount of \$890.00.

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: May 17, 2019

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Residential Tenancy Branch