



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes:**

Tenant: CNR  
Landlord: OPR, MNR, MNSD, MNDC, FF

### **Introduction**

This hearing was convened in response to cross applications by both parties pursuant to the *Residential Tenancy Act* (the Act) for Orders as follows. The landlord applied for:

1. An Order of Possession - Section 55
2. A Monetary Order for unpaid rent and utilities - Section 67
3. An Order to retain the security deposit - Section 38
4. An Order to recover the filing fee for this application - Section 72

The tenant applied:

1. To Cancel a Notice to End for Unpaid Rent - Section 46

The applicant tenant was provided with a copy of the Notice of a Dispute Resolution Hearing dated December 23, 2015 after filing their application. The tenant, however, did not attend the hearing set for today at 9:30 a.m. The phone line remained open during the hearing of approximately 20 minutes and was monitored throughout this time. The only party to call into the hearing was the landlord. As a result, the tenant's application was preliminarily **dismissed**. The landlord testified the tenant still resides in the unit.

I accept the landlord's evidence that the tenant was personally served with the application for dispute resolution and notice of hearing shortly after obtaining the documents December 24, 2015. The landlord was given full opportunity to be heard, to present evidence and to make submissions.

### **Issue(s) to be Decided**

Is the notice to end tenancy valid?  
Is the landlord entitled to an Order of Possession?  
Is the landlord entitled to the monetary amounts claimed?

## **Background and Evidence**

The tenancy began January 2015. The tenancy agreement states rent in the amount of \$750.00 is payable in advance on the first day of each month. The agreement also states the tenant is obligated to pay a set \$120.00 each month for all utilities of the unit. At the outset of the tenancy, the landlord collected a security deposit from the tenant in the amount of \$375.00 which they retain in trust. The tenant failed to pay all rent in the month of December 2015 and on December 16, 2015 the landlord served the tenant with a notice to end tenancy for non-payment of rent stating the tenant owed rent of \$375.00 and utilities of \$150.00. The landlord provided a 'proof of service' document confirming they personally served the tenant on December 16, 2015 which was corroborated by a witness, TR. The tenant applied to dispute the notice and did not pay the rent and utilities. It must further be noted the tenant did not apply to dispute the notice within the prescribed period to do so by the Act. The tenant further failed to pay rent and utilities in the month of January and February 2016.

## **Analysis**

Based on the landlord's evidence I find that the tenant was served with a notice to end tenancy for non-payment of rent and utilities and I find the notice to be valid. The tenant has not paid the outstanding amounts of rent and utilities and despite their application to dispute the landlord's Notice I find the tenant did not apply in time to do so, and never the less, did not attend the hearing to defend their application – with the result that their application has been **dismissed**. Based on the above facts I find that the landlord is entitled to an **Order of Possession**.

I also find that the landlord has established a monetary claim for unpaid rent and utilities of the tenancy agreement. The landlord is also entitled to recovery of the filing fee. The security deposit will be off-set from the award made herein.

### ***Calculation for Monetary Order***

Unpaid rent December 2015	\$375.00
Unpaid utilities December 2015	\$150.00
Unpaid rent January 2016	\$750.00
Unpaid utilities January 2016	\$120.00
Unpaid rent February 2016	\$750.00
Unpaid utilities February 2016	\$120.00
Filing fee for the cost of this application	\$50.00
<i>Less Security Deposit</i>	<i>-\$375.00</i>
<b>Total Monetary Award / landlord</b>	<b>\$1940.00</b>

## **Conclusion**

The tenant's application is **dismissed**, without leave to reapply.

The landlord's application is granted.

**I grant an Order of Possession** to the landlord **effective 2 days from the day it is served on the tenant**. The tenant must be served with this Order of Possession. Should the tenant fail to comply with the Order, the Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

**I Order** that the landlord retain the security deposit of \$375.00 in partial satisfaction of the claim and I grant the landlord an Order under Section 67 of the Act for the balance due of **\$1940.00**. If necessary, this Order may be filed in the Small Claims Court and enforced as an Order of that Court.

**This Decision is final and binding on both parties.**

*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: February 10, 2016

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Residential Tenancy Branch

