



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPU, MNRL, FFL

### Introduction

The landlord applied to the Residential Tenancy Branch [the 'RTB'] for Dispute Resolution. The landlord asks me for the following orders against the tenant.

1. Exclusive possession of the rental unit in favour of the landlord.
2. Payment of \$8,000.00 in unpaid rent.
3. Payment of \$345.00 in unpaid utilities.
4. Reimbursement for the \$100.00 filing fee for this application.

The landlord appeared at the hearing on 3 April 2023. The tenant did not appear.

### Preliminary Matter - Non-appearance at the Hearing

The tenant did not attend this hearing, although I left the teleconference hearing connection open throughout the hearing which commenced at 1100 hours and ended at around noon. I confirmed:

1. that the landlord's spouse sent a copy of this Notice of Hearing to the tenant's address for service *via* registered mail on 11 March 2023;
2. that the notice recorded the correct call-in numbers and participant codes for the hearing; and
3. by reviewing the teleconference system, that the landlord and I were the only ones who had called into this teleconference.

Rule 7.3 of the RTB Rules of Procedure reads:

#### 7.3 Consequences of not attending the hearing

If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

The tenant failed to attend this hearing, but I conducted it in the tenant's absence. The landlord's evidence satisfied me that they had correctly notified the tenant of this hearing and how to participate.

#### Issue(s) to be Decided

Is the landlord entitled to exclusive possession of the rental unit?

Does the tenant owe the landlord for unpaid rent and utilities?

Must the tenant reimburse the landlord for the cost of this hearing?

#### Background and Evidence

The landlord testified that there was no written tenancy agreement. Rather, the landlord had a verbal agreement with the tenant to rent to the tenant:

1. one of two units in a house belonging to the landlord;
2. for \$2,000.00 per month rent; and
3. for 60% of the cost of the utilities for the house.

Different tenants resided in the other unit of the house during the period at issue.

The tenant moved into the unit in October last year. But the landlord did not charge the tenant rent at that point. They did not do this because the landlord was renovating the house, and because the tenant told the landlord that they only required a temporary lodging.

In early November, however, the tenant told the landlord that they wanted to stay longer. And so the landlord offered to let the tenant rent the unit for \$2,000.00 per month. The landlord said that the rent included 'almost everything', but not utilities.

The daughter of the landlord appeared at this hearing and told me that she overheard this conversation. She said that the tenant replied, 'No problem: that's really cheap.' in response to the amount of rent. And she said that the tenant replied, 'No problem', about paying extra for utilities.

The landlord said that they received \$1,150.00 from the tenant on 6 November for that month's rent, and then on 20 November, a further \$600.00. This left a balance of \$250.00 owing for November.

Then, said the landlord, the tenant ceased paying rent altogether.

The landlord issued a 10-day Notice to End Tenancy on 17 February for unpaid rent and utilities [the 'Notice']. The landlord posted this Notice on the door of the unit.

Included with this Notice was a demand that the tenant pay utilities in the amount of \$345.00 by 24 March 2023, representing 60% of utilities charges to the house for November to January. The wife of the landlord also appeared at this hearing and told me that she witnessed the landlord post these documents on the door of the unit.

After the tenant received this Notice, the landlord said the tenant sent a text message denying having agreed to pay 60% of the utilities, saying that amount was too much.

The landlord also told me that the tenant has not paid rent for December, January, February, March and April.

There was no evidence to contradict what the landlord and their witnesses told me. There was also no evidence that the tenant disputed the Notice.

### Analysis

The tenant failed to dispute the Notice or pay the rent owing as set out in that Notice. I find that the tenancy is at an end, and the landlord is entitled to exclusive possession of the unit.

I also find that the tenant failed to pay rent in the amounts of:

- \$250.00 for November 2022; and
- \$2,000.00 for each month since, up to and including April 2023.

This gives a total of \$10,250.00 owing to the landlord for rent.

It is unclear to me just what the agreement was as to the payment of utilities. The landlord's own evidence raises a doubt as to what was agreed upon, as the tenant apparently disagreed with 60% when confronted in February for this first time with a demand to pay.

Accordingly, I decline to make an order regarding unpaid utilities.

### Conclusion

I grant an Order of Possession in favour of the landlord. This order is effective within two days of serving the order on the tenant. If the tenant or any occupant of the rental unit fails to comply with my order, then the landlord can file this order with the Supreme Court of British Columbia, and enforce it as an order of that court.

I order that the tenant pay to the landlord \$10,250.00 *per* section 55 (1.1) of the *Residential Tenancy Act* [the 'Act'].

Also, as the landlord succeeded in this application, I order that the tenant must reimburse the landlord \$100.00 for the filing fee, *per* section 72 (1) of the Act.

The landlord must serve this order on the tenant as soon as possible. If the tenant does not comply with my order, then the landlord may file this order in the Small Claims Division of the Provincial Court of British Columbia. Then the landlord can enforce my order as an order of that court.

I make this decision on authority delegated to me by the Director of the RTB *per* section 9.1(1) of the Act.

Dated: 11 April 2023

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Residential Tenancy Branch