



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: OPR, OPC, MND, MNDC, MNSD, FF / CNC

### Introduction

This hearing was scheduled in response to 2 applications: i) by the landlord for an order of possession for unpaid rent / an order of possession for cause / a monetary order as compensation for damage to the unit, site or property / compensation for damage or loss under the Act, Regulation or tenancy agreement / retention of the security deposit / and recovery of the filing fee; and ii) by the tenant for cancellation of a notice to end tenancy for cause.

Both parties participated in the hearing and gave affirmed testimony.

### Issue(s) to be Decided

Whether either party is entitled to any of the above under the Act, Regulation or tenancy agreement.

### Background and Evidence

Landlord "SK" is a tenant in the subject unit. Landlord "SK" sublet space in the unit to tenant "LM" beginning on or about April 1, 2012. There is no written tenancy agreement in evidence for this sublet tenancy, for which tenant "LM" paid a security deposit of \$180.00 on March 23, 2012.

The landlord herself pays a monthly rent of \$925.00. At the outset of the sublet tenancy, the tenant paid monthly rent of \$360.00. Effective on or about May 1, 2012, the monthly sublet rent was increased to \$570.00 as the tenant rented additional space in the unit. The landlord testified that she collected rent from the tenant at the end of the month which preceded the month for which rent was due; for example, May's rent would be due and payable on April 30.

The landlord issued a 1 month notice to end tenancy for cause dated September 3, 2012. The tenant filed an application to dispute the notice on September 13, 2012.

Later, arising from rent for October which remained unpaid when due on September 30, 2012, the landlord issued a 10 day notice to end tenancy for unpaid rent dated September 30, 2012. The notice was served by way of posting on the tenant's bedroom door on that same date. Subsequently, the tenant vacated the unit on October 1, 2012, and the tenant testified that she will not be returning to the unit.

The tenant paid a key deposit of \$100.00 in April, however, as she still has possession of the unit key(s) the deposit has not presently been refunded to her by the landlord.

The landlord testified that following the tenant's departure, she found a new subtenant in October who paid pro-rated rent for that month in the total amount of \$360.00.

### Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guideline, Fact Sheets, forms and more can be accessed via the website: [www.rto.gov.bc.ca](http://www.rto.gov.bc.ca)

As the tenant vacated the unit on October 1, 2012, I consider her application for cancellation of the 1 month notice to end tenancy for cause to be withdrawn.

Based on the documentary evidence and testimony, I find that the tenant's rent was due and payable on the last day of the month preceding the month for which rent was due. I also find that the tenant did not apply to dispute the landlord's 10 day notice to end tenancy for unpaid rent for October. Rather, I find that the tenant vacated the unit on October 1, 2012 and paid no rent for that month. In the result, I find that the landlord has established entitlement to an order of possession.

As for the monetary order, I find that the landlord has established entitlement to a claim of \$260.00, which is calculated as follows:

\$570.00 (rent for October) - \$360.00 (pro-rated rent paid in October by new renter) = \$210.00\* (balance of rent owed by tenant for October)

\$50.00\*: landlord's filing fee

I order that the landlord retain the tenant's security deposit of \$180.00, and I grant the landlord a monetary order for the balance owed of \$80.00 (\$260.00 - \$180.00).

Conclusion

The tenant's application is hereby dismissed.

I hereby issue an **order of possession** in favour of the landlord effective **immediately** after service on the tenant. This order must be served on the tenant. 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.

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **\$80.00**. Should it be necessary, this order may be served on the tenant, filed in the Small Claims Court and enforced as an order of that Court.

**The parties are encouraged to resolve quickly between them the outstanding matter concerning the key(s) and the key deposit.**

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: October 17, 2012.

---

Residential Tenancy Branch