



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPC, MND, MDSD & FF

### Introduction

A hearing was conducted by conference call in the presence of a representative of the applicant and in the absence of the respondent although duly served. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

I find that the Notice to End Tenancy was sufficiently served on the Tenant by posting on April 24, 2014.

The Residential Tenancy Act permits a party to serve another by mailing, by registered mail to where that other party resides. The Supreme Court of British Columbia has held that a party cannot avoid service by refusing to pick up their registered mail. The landlord testified she served the Application for Dispute Resolution/Notice of Hearing by mailing, by registered mail to where the tenant resides on May 30, 2014. The tenant refused to pick up the package. The landlord subsequently had a meeting with the tenant to discuss the issues and the hearing letter was given to her at that time. I determined the landlord has sufficiently served the tenant. With respect to each of the applicant's claims I find as follows:

### Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the landlord is entitled to an Order for Possession?
- b. Whether the landlord is entitled to A Monetary Order and if so how much?

- c. Whether the landlord is entitled to retain all or a portion of the security deposit/pet deposit?
- d. Whether the landlord is entitled to recover the cost of the filing fee?

### Background and Evidence

The parties entered into a written tenancy agreement that provided that the tenancy would start on July 1, 2013 and continue on a month to month basis. The rent is \$320 per month plus \$26 cablevision for a total of \$346 per month. The tenant paid a security deposit of \$300 at the start of the tenancy. The tenant(s) has paid the rent including the rent for July and it was accepted by the landlord "for use and occupation only." The tenant(s) continues to live in the rental unit.

### Analysis

#### Analysis - Order of Possession:

I determined the landlord was entitled to an Order for Possession. The tenant was served with a one month Notice to End Tenancy for cause on April 24, 2014. The Tenant(s) have not made an application to set aside the Notice to End Tenancy and the time to do so has expired. In such situations the Residential Tenancy Act provides the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and must vacate the rental unit by that date. **Accordingly, I granted the landlord an Order for Possession. The rent for July was accepted by the landlord on "a use and occupation basis" and accordingly I set the effective date of the Order for Possession for July 31, 2014.**

The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court of British Columbia for enforcement.

#### Analysis - Monetary Order and Cost of Filing fee

The landlord testified the tenant has given out copies of the key to the rental property to a number of non residents and it is necessary to re-key the rental property to protect the security of all of the residents. She produced an estimate that it will cost \$420.84 to re-key the rental property and provide the residents with keys. I determined the landlord is entitled to a monetary order against the tenant in the sum of \$420.84 for the cost of re-keying. I granted the landlord a monetary order in the sum of \$420.84 plus the sum of \$50 in respect of the filing fee for a total of \$470.84.

Security Deposit

**I determined the security deposit plus interest totals the sum of \$300. I ordered the landlord may retain this sum thus reducing the amount outstanding under this monetary order to the sum of \$170.84.**

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the 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 11, 2014

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Residential Tenancy Branch

