



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding CAPREIT Limited Partnership  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes: OPR, MNR, MNDC, MNSD, FF

### Introduction

This hearing concerns the landlord's application for an order of possession / a monetary order as compensation for unpaid rent / compensation for damage or loss under the Act, Regulation or tenancy agreement / retention of the security deposit / and recovery of the filing fee. The landlord's agent (the "landlord") attended and gave affirmed testimony. The tenant did not appear.

The landlord testified that the application for dispute resolution and notice of hearing ("hearing package") was served by registered mail. Evidence submitted by the landlord includes the Canada Post tracking number for the registered mail. The landlord testified that the tenant did not pick up the hearing package and that it was ultimately returned to the landlord. Based on the documentary evidence and the affirmed / undisputed testimony of the landlord, I find that the tenant was served in accordance with sections 89 and 90 of the Act which speak, respectively, to **Special rules for certain documents** and **When documents are considered to have been received**.

### Issue(s) to be Decided

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

### Background and Evidence

Pursuant to a written tenancy agreement the fixed term of tenancy is from September 01, 2014 to August 31, 2015. Monthly rent of \$890.00 and monthly parking of \$25.00 [total: \$915.00] are both due and payable in advance on the first day of each month. A security deposit of \$445.00 was collected.

The landlord issued a 10 day notice to end tenancy for unpaid rent dated June 03, 2015. The notice was served by posting to the unit door on that same date. A copy of

the notice was submitted in evidence. The date shown by when the tenant must vacate the unit is June 16, 2015. Subsequently, the tenant made 2 limited payments towards rent / parking, and he continues to reside in the unit. On the occasion of each of the 2 aforementioned payments, the landlord issued a receipt with a notation to the effect that the payment was accepted "For use [and] occupancy only."

A summary of the tenant's debt in relation to his 2 payments following issuance of the 10 day notice is as follows:

*\$1,390.00: total amount due on June 01, 2015 (includes rent / parking arrears, NSF fee(s) and fee(s) assessed for late payment of rent)*

*+ \$915.00: total rent / parking due on July 01, 2015*

*+ \$25.00: fee assessed for late payment of July's rent / parking*

*+ \$25.00: NSF fee*

**Total owed: \$2,355.00**

**MINUS:** *\$1,000.00: tenant's payment on June 17, 2015*

*\$965.00: tenant's payment on July 16, 2015*

**Total paid: \$1,965.00**

**Balance owed: \$390.00** (\$2,355.00 - \$1,965.00)

### Analysis

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent dated June 03, 2015. The tenant did not pay the full amount of outstanding rent within 5 days of receiving the notice, and the tenant did not apply to dispute the notice. The tenant is therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the notice. Accordingly, I find that the landlord has established entitlement to an **order of possession**.

As to compensation, pursuant to the summary and calculations set out above, I find that the landlord has established a claim of **\$440.00**. This is comprised of \$390.00 as shown above, in addition to the \$50.00 filing fee claimed by the landlord.

I order that the landlord retain \$440.00 from the tenant's security deposit of \$445.00 at such time as the tenancy ends. I order that the balance of the security deposit in the

amount of \$5.00 be dealt with by the parties in accordance with section 38 of the Act, which addresses **Return of security deposit and pet damage deposit**.

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **two (2) days** 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.

I order that the landlord retain **\$440.00** from the tenant's security deposit of \$445.00, at such time as tenancy ends, with the balance of the security deposit to be addressed pursuant to section 38 of the Act.

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 21, 2015

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Residential Tenancy Branch

