



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNR, MNDC, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord for a monetary order for unpaid rent and to recover the filing fee for the Application.

Only the Landlord appeared at the hearing. They gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

The Landlord testified that she served the Tenant with the Notice of Hearing and Application documents by sending them to her by registered mail. The Landlord testified that this occurred on March 31, 2015. In evidence was a registered mail receipt and cash register receipt for this mail. Under the Act, the Tenant is deemed served with these documents five days after mailing. I find the Tenant has been duly served in accordance with the Act.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Preliminary Issues

There has been one previous hearing between these parties, and the file number for that matter is reproduced on the cover page for ease of reference.

### Issue(s) to be Decided

Is the Landlord entitled to monetary compensation from the Tenant?

### Background and Evidence

This tenancy began on May 1, 2014, with the parties entering into a simple, hand written tenancy agreement. The monthly rent was \$600.00 per month, payable on the first day of each month. The Tenant paid a security deposit of \$300.00 which has been returned by the Landlord prior to this hearing.

The Landlord testified that on July 31, 2014, the Tenant told her she was moving out that same evening. The Landlord enquired about August rent since the Tenant had not given the Landlord a proper notice to end tenancy. The Landlord testified that the Tenant replied that she did not have to give the Landlord one month of notice, since it was not in their tenancy agreement.

The Landlord claims for one month of rent for August 2014 and the filing fee for the cost of the Application, in the amount of \$650.00.

### Analysis

Based on the above, the evidence and testimony, and on a balance of probabilities, I find as follows.

I find the Tenant has breached sections 26 and 45 of the Act by failing to pay rent to the Landlord for August and by failing to give the required Notice to End Tenancy.

The Residential Tenancy Act (the "Act") applies to all residential tenancy agreements in the province of British Columbia. The Act applies whether or not it is included or referenced in the tenancy agreement. Furthermore, under section 5 of the Act, the parties cannot avoid or contract outside of the Act.

Section 26 requires the Tenant to pay rent to the Landlord on the date it is due. The Tenant did not do this.

Section 45 deals with the Tenant giving the Landlord a Notice to End Tenancy. Section 45 reads as follows:

(1) A tenant may end a periodic tenancy by giving the landlord notice to end the tenancy **effective on a date that**

(a) **is not earlier than one month** after the date the landlord receives the notice, and

(b) **is the day before the day in the month**, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

**[Emphasis added.]**

This means that if the Tenant had wanted to end the tenancy on July 31, then she should have given the Landlord a written Notice to End Tenancy no later than June 30, since this was the day before rent was due for the month of July. Furthermore, under section 52 of the Act, the Tenant should have given the Landlord her Notice to End Tenancy in writing and signed it.

Based on all of the above, I find the Tenant failed to give the Landlord the Notice to End Tenancy in the required form and failed to give the Landlord the required period of time of notice, that is, one full month of notice that she was moving out.

Therefore, I find the Landlord is entitled to loss of rent for August 2014.

Section 67 of the Residential Tenancy Act states:

Without limiting the general authority in section 62(3) [*director's authority*], if damage or loss results from a party not complying with this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

I find that the Landlord has established that the Tenant breached the Act and tenancy agreement, and is entitled to monetary compensation for the breach.

I find the Landlord has established a total monetary claim of **\$650.00** comprised of the rent for August 2014, and the \$50.00 fee paid for this application, and I grant the Landlord an order in those terms.

This order must be served on the named Tenant and may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

### Conclusion

The Tenant breached the Act by failing to give the Landlord the required Notice to End Tenancy. The Landlord is entitled to one month of rent and to recover the filing fee for the cost of the Application.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: September 08, 2015

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Residential Tenancy Branch

