



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding ASCENT REAL ESTATE MANAGEMENT CORPORATION  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MNR, FF

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for:

- an order of possession for unpaid rent, pursuant to section 55;
- a monetary order for unpaid rent, pursuant to section 67; and
- authorization to recover the filing fee for this application from the tenant, pursuant to section 72.

The landlord's agent, MB ("landlord") and the tenant attended the hearing and were each given a full opportunity to be heard, to present sworn testimony, to make submissions, and to call witnesses. The landlord confirmed that she was the property manager for the landlord company named in this application and that she had authority to speak as an agent on its behalf at this hearing.

The tenant confirmed receipt of the landlord's application for dispute resolution hearing package ("Application"). In accordance with sections 89 and 90 of the *Act*, I find that the tenant was duly served with the landlord's Application.

The tenant confirmed receipt of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated September 25, 2015 ("10 Day Notice"), which was served by way of registered mail by the landlord on September 25, 2015. The landlord provided a Canada Post tracking number to confirm service. In accordance with sections 88 and 90 of the *Act*, I find that the tenant was duly served with the landlord's 10 Day Notice.

The landlord initially applied for a monetary order of \$3,400.00 for unpaid rent, late charges and the \$50.00 filing fee. However, the tenant agreed that he owed additional rent for November of \$1,300.00 and agreed to settle this matter to include all unpaid rent for this tenancy. In accordance with section 64(3)(c) of the *Act*, I amend the landlord's application to increase the monetary amount sought from \$3,400.00 to

\$4,700.00, which includes the \$50.00 filing fee, as both parties consented to deal with all unpaid rent at this hearing.

### Issues to be Decided

Is the landlord entitled to an order of possession for unpaid rent?

Is the landlord entitled to a monetary award for unpaid rent?

Is the landlord entitled to recover the filing fee for this Application from the tenant?

### Background and Evidence

Both parties agreed that this tenancy began on July 15, 2015 for a fixed term of one year, after which it would transition to a month-to-month tenancy. Monthly rent in the amount of \$1,300.00 is payable on the first day of each month. Both parties agreed that a security deposit of \$650.00 was due but the tenant's cheque for the deposit was returned for insufficient funds and so the landlord does not currently retain a security deposit from the tenant. A written tenancy agreement governs this tenancy but a copy was not provided for this hearing. The tenant continues to reside in the rental unit.

The landlord issued the 10 Day Notice indicating that \$1,300.00 was due on September 1, 2015. The effective move-out date on the 1 Month Notice is October 6, 2015. Both parties agreed that \$5,850.00 was due for rent from July 15 to November 30, 2015, \$650.00 was due for the security deposit and \$100.00 was due for late rent charges for four months. Both parties agreed that the tenant made a payment of \$1,950.00 towards the above charges. Both parties agreed that the tenant currently owes the landlord \$4,650.00 for the above rent, security and late rent charges for this tenancy.

### Analysis

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During the hearing the parties discussed the issues between them, engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

Both parties agreed to the following final and binding settlement of all issues currently under dispute at this time:

1. Both parties agreed that this tenancy will end by 1:00 p.m. on November 30, 2015, by which time the tenant and any other occupants will have vacated the rental unit;
2. Both parties agreed that the tenant will pay the landlord a total of \$4,650.00 by way of certified cheques in four installments according to the following schedule:
  - a. \$1,162.50 by November 21, 2015;
  - b. \$1,162.50 by December 5, 2015;
  - c. \$1,162.50 by December 19, 2015;
  - d. \$1,162.50 by January 2, 2016;
3. Both parties agreed that the above payment of \$4,650.00 satisfies all outstanding rent from July 15 to November 30, 2015 totaling \$5,850.00, the security deposit of \$650.00, and four late rent charges totaling \$100.00;
4. Both parties agreed that the \$650.00 security deposit, if paid by the tenant, is to be dealt with at the end of this tenancy in accordance with section 38 of the *Act*;
5. The landlord agreed to bear the cost of the \$50.00 filing fee for this Application;
6. Both parties agreed that this settlement agreement constitutes a final and binding resolution of the landlord's entire application at this hearing.

These particulars comprise the full and final settlement of all aspects of this dispute for both parties. Both parties testified at the hearing that they understood and agreed to the above terms, free of any duress or coercion. Both parties testified that they understood and agreed that the above terms are legal, final and binding and enforceable, which settle all aspects of this dispute.

### Conclusion

To give effect to the settlement reached between the parties and as advised to both parties during the hearing, I issue the attached Order of Possession to be used by the landlord **only** if the tenant and any other occupants fail to vacate the rental premises by 1:00 p.m. on November 30, 2015. The landlord is provided with this Order in the above terms and the tenant must be served with this Order in the event that the tenant and any other occupants fail to vacate the rental premises by 1:00 p.m. on November 30, 2015. Should the tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

In order to implement the above settlement reached between the parties and as advised to both parties during the hearing, I issue a monetary Order in the landlord's favour in the amount of \$4,650.00. I deliver this Order to the landlord in support of the above agreement for use **only** in the event that the tenant fails to abide by condition #2 of the above monetary agreement. The landlord is provided with this Order in the above terms

and the tenant must be served with a copy of this Order in the event that the tenant fails to abide by condition #2 of the above monetary agreement. Should the tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

The landlord must bear the cost of the \$50.00 filing fee for this Application.

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: November 12, 2015

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Residential Tenancy Branch

