



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

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

## **DECISION**

Dispute Codes      OPR MNR MNSD MNDC FF

### Introduction

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* (“the *Act*”) for an Order of Possession for unpaid rent pursuant to section 55; a monetary order for unpaid rent pursuant to section 67; an order to be allowed to keep all or part of the security deposit pursuant to section 38; and to recover the filing fee from the tenant for the cost of this application pursuant to section 72.

The tenant did not attend. The landlord attended and was given full opportunity to make submissions. The landlord provided evidence that a 10 Day Notice to End Tenancy for Unpaid Rent (“10 Day Notice”) was served to the tenant by posting it on his rental unit door on January 5, 2016. I find the tenant was sufficiently served with his 10 Day Notice as of January 8, 2016 (3 days after the posting of the 10 Day Notice). The landlord testified that the tenant was served with the landlord’s Application for Dispute Resolution hearing package on February 4, 2016 by registered mail. The landlord testified that the package was returned with an indication that the package had not been picked up. Pursuant to section 89 and 90 of the *Act*, as well as the deemed service provisions of the *Act* and Policy Guidelines, I find that the tenant was deemed served with the landlord’s Application for Dispute Resolution hearing package on February 9, 2016 (5 days after its registered mailing).

### Issues to be Decided

Is the landlord entitled to a monetary award for unpaid rent and losses arising out of this tenancy?

Is the landlord entitled to retain the tenant’s security deposit towards any monetary award?

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

### Background and Evidence

The landlord testified that the residential tenancy agreement began on July 1, 2013 as a fixed term tenancy. After one year, the tenancy continued on a month to month basis with a current rental amount of \$738.00 payable on the first of each month. The landlord testified that she continued to hold the \$360.00 security deposit paid by the tenant on June 29, 2013.

The landlord has applied for an Order of Possession for unpaid rent for the month of January 2016. The landlord testified that the tenant did not pay rent of \$738.00 due on January 1, 2016.

On January 5, 2016, the landlord posted a 10 Day Notice to End Tenancy on the tenant's door. The landlord testified that on approximately February 14, 2016, she became aware that the tenant had vacated the residence. The landlord testified that the tenant did not pay the January 2016 rent after receiving the 10 Day Notice. She also testified that the tenant continued to live in the rental unit for a portion of February 2016 but that he did not pay the February 2016 rent either. The landlord withdrew the application for an Order of Possession as the tenant had vacated the residence.

The landlord sought a monetary award of \$1476.00 for the months of January and February 2016 as well as \$100.00 to recover the filing fee for this application.

### Analysis

The landlord withdrew the application for an Order of Possession as the tenant has vacated the rental unit. However, the landlord testified that the tenant failed to pay the January 2016 and February 2016 and that he continued to reside in the rental unit until mid-February 2016. She testified that she issued a notice to end tenancy and attempted to make payment arrangements with the tenant but that the tenant was uncooperative.

I accept the uncontested evidence offered by the landlord that the tenant did not pay rent for the months of January and February 2016 while residing in the unit. Given the undisputed evidence of the landlord, I find that the landlord is entitled to receive an order for unpaid rent totalling \$1476.00. I am issuing the attached monetary order that includes the landlord's application unpaid rent in January and February 2016.

The landlord testified that she continues to hold a security deposit of \$360.00 plus any interest from June 29, 2013 to the date of this decision for this tenancy. I will allow the landlord to retain the security deposit *plus any interest* in partial satisfaction of the monetary award. There is no interest payable for this time period.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee paid for this application.

### Conclusion

I issue a monetary Order in favour of the landlords as follows:

Rental Arrears for January 2016	\$738.00
Rental Arrears for February 2016	738.00
Less Security Deposit	-360.00
Recovery of Filing Fee for this application	100.00
<b>Total Monetary Award</b>	<b>\$1216.00</b>

The landlord is provided with formal Orders in the above terms. Should the tenant(s) fail to comply with these Orders, these Orders may be filed and enforced as Orders of the Provincial Court of British Columbia.

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: March 30, 2016

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Residential Tenancy Branch