



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNR   OPC   MNSD   MNDC   FF

### Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution, submitted to the Residential Tenancy Branch on May 16, 2016 (the "Application").

The Landlord has applied for the following relief pursuant to the *Residential Tenancy Act* (the "Act"): a monetary order for money owed or compensation for damage or loss; a monetary order for unpaid rent; an order permitting the Landlord to retain the security deposit in partial satisfaction of the claim; an order of possession for cause; and an order granting recovery of the filing fee.

The Landlord was represented at the hearing by D.D., who provided her solemn affirmation. The Tenant did not attend the hearing.

On behalf of the Landlord, D.D. testified that the Tenant was served with the Notice of a Dispute Resolution Hearing, and the evidence upon which the Landlord intended to rely, on May 19, 2016 by registered mail. D.D. provided a Canada Post tracking number in support.

Pursuant to sections 89 and 90 of the *Act*, documents served in this way are deemed to be received five days later. I find the Tenant was duly served with the Notice of a Dispute Resolution Hearing on May 24, 2016.

The Landlord was given an opportunity to present evidence orally and in written and documentary form, and to make submissions to me.

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.

### Issues to be Decided

Is the Landlord entitled to a monetary order for unpaid rent?

Is the Landlord entitled to an order of possession?

Is the Landlord entitled to retain the security deposit in partial satisfaction of the claim?

Is the Landlord entitled to recover the filing fee?

### Background and Evidence

On behalf of the Landlord, D.D. provided unchallenged oral testimony. She advised that a one-year, fixed-term tenancy began on December 1, 2015. Rent in the amount of \$875.00 was due on the first day of each month. A security deposit of \$437.50 was paid to the Landlord.

According to D.D., the Tenant was repeatedly late paying rent. In December 2015, and in January, February, and March 2016, pre-authorized rent payments were returned "N.S.F."

As a result of the repeatedly late rent payments, the Landlord issued a 1 Month Notice to End Tenancy for Cause, dated March 3, 2016 (the "1 Month Notice"). The effective date of the 1 Month Notice was April 30, 2016. The 1 Month Notice was served by posting a copy on the Tenant's door on March 3, 2016.

On receipt of the 1 Month Notice, the Tenant stopped paying rent. However, he continues to occupy the rental unit. Rent remains unpaid for the months of April, May, and June 2016.

### Analysis

Based on the affirmed testimony and documentary evidence, and on a balance of probabilities, I find as follows:

On behalf of the Landlord, D.D. testified the 1 Month Notice was served on March 3, 2016, by attaching a copy to the Tenant's door. Pursuant to sections 89 and 90 of the *Act*, documents served in this way are deemed to be received three days later. I find the Tenant was duly served with the 1 Month Notice on March 6, 2016.

A tenant who receives a notice to end tenancy for cause and wishes to dispute it has 10 days to file an application for dispute resolution. When a tenant receives a notice to end tenancy and does not file an application for dispute resolution, section 47 of the *Act* creates the conclusive presumption that the tenancy ends on the effective date of the notice.

The Tenant did not file an application for dispute resolution in the applicable time period. Accordingly, I find the Tenant is conclusively presumed to have accepted the tenancy ended on April 30, 2016.

I find the Landlords are entitled to an order of possession, which will be effective two (2) days after service on the Tenant.

In addition, section 67 of the *Act* permits me to order a party to pay compensation for damage or loss to the other for failing to comply with the *Act*, the regulations or a tenancy agreement.

The Landlord has provided undisputed evidence that rent has not been paid for the months of April, May, and June 2016. Accordingly, I find the Landlord has established a total monetary claim of \$2,725.00, comprised of a monetary award of \$2,625.00 for unpaid rent, and the \$100.00 filing fee.

The Landlord has requested to apply the security deposit (\$437.50) in partial satisfaction of unpaid rent, which I allow. Accordingly, I grant the Landlord a monetary order in the amount of \$2,287.50 ( $\$2,725.00 - \$437.50 = \$2,287.50$ ).

### Conclusion

I grant the Landlords an order of possession, which will be effective two (2) days after service on the Tenant. This Order may be filed in and enforced as an order of the Supreme Court of British Columbia.

In addition, I grant the Landlords a monetary order in the amount of \$2,287.50. This Order may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

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: June 20, 2016

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Residential Tenancy Branch