



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 1068052 BC LTD  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR MNR MNDC FF

### Introduction

This hearing dealt with the landlord's application 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; authorization to retain the tenant's security deposit pursuant to section 38; and authorization to recover the filing fee for this application pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, and to make submissions. Both parties agreed that the tenant had vacated the rental unit on September 8, 2016. The landlord withdrew his application for an Order of Possession but proceeded with his application for a monetary order for unpaid rent as well as to retain the tenant's security deposit.

### Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent? Is the landlord entitled to retain the tenant's security deposit towards that order? Is the landlord entitled to recover the cost of the filing fee for this application?

### Background and Evidence

This tenancy began prior to the current landlord's ownership of the property in March 2016. The rental amount was \$575.00 payable on the first of each month. The tenant testified, supported by the residential tenancy agreement document submitted as evidence for this hearing that the landlord continues to hold a \$287.50 security deposit paid by the tenant at the outset of the tenancy.

The landlord testified that the tenant did not pay rent in July 2016. The landlord testified that he made several attempts to discuss payment with the tenant. The landlord testified

that the tenant did not pay rent in August 2016. On August 17, 2016, the landlord served the tenant with a 10 Day Notice to End Tenancy for unpaid rent totalling \$1150.00.

The landlord testified that the tenant did not pay rent of \$575.00 due on July 1, 2016 or on August 1, 2016. The landlord testified that the tenant did not pay the outstanding rent arrears after receiving the 10 Day Notice on August 17, 2016. After the landlord applied for an Order of Possession, the tenant vacated the rental unit (September 8, 2016).

The landlord also applied for a monetary award of \$1725.00 for the months of July, August and September 2016 while the tenant continued to reside in the rental unit but did not pay the rent.

The tenant testified that the rent was paid in full in cash to the landlord each month of his tenancy by the 5<sup>th</sup> or the 6<sup>th</sup> of the month. The tenant testified that his banking statements will reflect his payment of rent each month. The tenant was provided with an opportunity to supply his banking statements after the dispute resolution hearing however he did not do so.

The landlord submitted a log where he recorded his tenants' payments and other notations regarding the tenancy. The log showed that the tenant paid cash \$575.00 in March, April, May and June to the landlord after he took possession of the rental property on March 28, 2016. However, the log shows that no rent was received in July 2016. The log also shows that the landlord made at least 2 attempts in July to follow-up with the tenant regarding the outstanding rent.

The landlord's log has a notation dated August 6, 2016 that says, "no rent for 2 months now" and indicates that he served a 10 Day Notice to End Tenancy on August 17, 2016. The log also indicates that, as of September 7, 2016, the tenant was still residing in the unit but had not paid the outstanding rent.

### Analysis

I accept the landlord's testimony with respect to the outstanding rent owed by the tenant. I find that the landlord's evidence was provided in a calm and candid manner. According to the landlord's log regarding this rental unit, the landlord exercised patience in allowing the tenant time to pay the rental arrears. I find that the landlord has shown, through his testimony and his documentary evidence that the tenant failed to pay rent for the months of July, August and September 2016. Therefore, I find that the landlord is entitled to receive an order for unpaid rent for 3 months totalling \$1725.00.

The landlord testified that he continues to hold a security deposit of \$287.50 plus any interest from the start of the tenancy to the date of this decision. 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 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

The landlord withdrew his application for an Order of Possession.

I issue the landlord a monetary order as follows,

Item	Amount
Unpaid Rent: 3 months x \$575.00	\$1725.00
Less Security Deposit	-287.50
Recovery of Filing Fee for this Application	100.00
<b>Total Monetary Order</b>	<b>\$1537.50</b>

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: October 5, 2016

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Residential Tenancy Branch