



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes

OPQ, MNR, MNSD, & FF

### Introduction

The Application for Dispute Resolution filed by the landlord makes the following claims:

- a. An Order for Possession for the failure to qualify for a rent subsidy
- b. A monetary order in the sum of \$577 for unpaid rent
- c. An Order to retain the security deposit.
- d. An order to recover the cost of the filing fee

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present. The parties acknowledged they had received the documents of the other party.

I find that the 2 month Notice to End Tenancy was served on the Tenants by posting on August 18, 2016. Further I find that the Application for Dispute Resolution/Notice of Hearing was served on the tenants by mailing, by registered mail to where the Tenants reside on November 17, 2016. With respect to each of the applicant's claims I find as follows:

### Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the landlord is entitled to an Order for Possession?
- b. Whether the landlord is entitled to A Monetary Order and if so how much?
- c. Whether the landlord is entitled to retain all or a portion of the security deposit/pet deposit?
- d. Whether the landlord is entitled to recover the cost of the filing fee?

### Background and Evidence

The parties entered into a written tenancy agreement that provided that the tenancy would start on May 1, 2008. The present rent is \$1300 plus \$25 for parking for a total of \$1325. The tenants paid a security deposit of \$600 at the start of the tenancy. The tenants received a rent subsidy for the period ending October 31, 2016 and the tenants' contribution to rent was \$705.

The tenants failed to provide the landlord with the necessary documentation to determine whether the tenants are entitled to a subsidy starting November 1, 2016. As a result the tenants are obliged to pay the full rent as provided in the tenancy and the landlord has the right to terminate the tenancy agreement.. The tenant testified he was unable to deal with this situation because he was out of town dealing with his ill father. The tenants have made rental payments since the commencement of this application. As of the date of the hearing the tenants owe the sum of \$162.47 in rent to the end of December. The tenant(s) continue to reside in the rental unit.

Analysis - Order of Possession:

I determined the landlord was entitled to an Order for Possession. There is outstanding rent. The tenants failed to provide the materials necessary for the landlord to consider the application for a rent subsidy. The Tenant(s) have not made an application to set aside the Notice to End Tenancy and the time to do so has expired. In such situations the Residential Tenancy Act provides the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and must vacate the rental unit by that date. Accordingly, I granted the landlord an Order for Possession. I set the effective date of the Order for Possession for January 2, 2017.

The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court of British Columbia for enforcement.

Analysis - Monetary Order and Cost of Filing fee:

I determined the tenant has failed to pay the rent and the sum of \$162.47 remains outstanding. I determined the landlord has given sufficient notice of their intention to claim for all of last month as provided in the Application for Dispute Resolution. I granted the landlord a monetary order in the sum of \$162.47 plus the sum of \$100 in respect of the filing fee for a total of \$262.47.

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial Court and enforced as an Order of that Court.

Security Deposit:

I dismissed the application to keep the security deposit with liberty to re-apply as it appears the matter may be settled and the tenancy may be reinstated.

Settlement:

At the end of the hearing the parties reached a settlement and they asked that I record the settlement pursuant to section 63(2) of the Residential Tenancy Act as follows:

- a. The Tenant(s) shall pay to the landlord the arrears and the cost of the filing fee totaling the sum of \$262.47 by 1:00 p.m. on December 27, 2016.
- b. The Tenant(s) shall meet with the representative of the landlord at the onsite office at 1:00 p.m. on December 27, 2016 to consider the Tenants application for a subsidy. The Tenants shall provide all documentation required for this consideration. The Landlord shall review the tenants' application and provided all the necessary documents have been included shall calculate the tenant's contribution for a subsidy which can be effective starting January 1, 2017. If the Tenant(s) fail to provide the necessary documentation the landlord shall be at liberty to enforce the Order for Possession.
- c. The tenants shall pay to the landlord the tenants' contribution to the rent as calculated above on or before January 1, 2017.
- d. The landlord shall reinstate the tenancy and shall not enforce the monetary order and Order for Possession provided the above process is satisfactorily followed.

Conclusion:

As of the date of this hearing I determined the landlord was entitled to a monetary order in the sum of \$262.47 and an Order for Possession effective January 2, 2017. The parties have agreed the monetary order and Order for Possession shall not be enforced if the settlement is carried as set out above.

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: December 23, 2016

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Residential Tenancy Branch