



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      FF MNDC MNR MNSD OPR

### Introduction

Pursuant to section 58 of the *Residential Tenancy Act*. (the *Act*), I was designated to hear this matter. This hearing dealt with the landlord's application for:

- an Order of Possession pursuant to section 55 of the *Act* for unpaid rent or utilities;
- a Monetary Order pursuant to section 67 of the *Act* for unpaid rent, and for money owed for damage or loss under the *Act*;
- an application to keep all or part of the damage deposit pursuant to section 38 of the *Act*; and
- recovery of the filing fee from the tenant, pursuant to section 72 of the *Act*.

While the landlord, GG, attended the hearing by way of conference call, the tenant did not. The landlord was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord gave sworn testimony that a 10 Day Notice to End Tenancy for Unpaid Rent ("10 Day Notice") was personally served to the tenant on December 2, 2016. I find that in accordance with section 88 of the *Act* the 10 Day Notice was served to the tenant on December 2, 2016.

The landlord testified that the tenant was sent the Landlord's Application for Dispute Resolution hearing package ("dispute resolution hearing package") by way of Registered Mail on December 14, 2016. The Canada Post tracking number was provided for the hearing. In accordance with section 89 and 90 of the *Act*, I find that the tenant was served with the landlord's dispute resolution hearing package on December 19, 2016.

### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to a Monetary Order for unpaid rent?

Can the landlord apply the security deposit against any Monetary Order issued?

Is the landlord entitled to recovery of the filing fee from the tenant?

### Background and Evidence

The landlord provided the residential tenancy agreement as part of his evidentiary package, and gave testimony that the tenancy agreement in question began on October 15, 2014. This was a month to month tenancy, rent was set at \$800.00 per month and a security deposit of \$400.00 continues to be held by the landlord.

The landlord has applied for an Order of Possession and a Monetary Order for non-payment of rent for the months of November and December 2016 and January 2017. The landlord explained that the tenant has only partially paid for rent for those months. The landlord is seeking a Money Order of \$1,000.00 to recover monies owed from non-payment of rent for the following months:

<b>Item</b>	<b>Amount</b>
Unpaid Rent November 2016	\$200.00
Unpaid Rent December 2016	400.00
Unpaid Rent January 2017	400.00
Total =	\$1,000.00

Sometime during the week of January 9, 2017, the landlord noticed that the tenant has changed the locks on the rental unit. The landlord expressed great dismay at this and said he was very concerned about the safety of the tenant and the rental unit as he could no longer access the suite in the event of an emergency.

### Analysis – Order of Possession

The tenant failed to pay the unpaid rent within five days of receiving the 10 Day Notice to End Tenancy. The tenant has not made application pursuant to section 46(4) of the *Act* within five days of receiving the 10 Day Notice. In accordance with section 46(5) of the *Act*, the tenant's failure to take either of these actions within five days led to the end of her tenancy on the effective date of the notice. In this case, this required the tenant to vacate the premises by December 12, 2016. As that has not occurred, I find that the landlord is entitled to a 2 day Order of Possession. The landlord will be given a formal Order of Possession which must be served on the tenant.

### Analysis – Monetary Order

The landlord provided testimony and written evidence was submitted with the hearing package demonstrating that rent has not been paid in its entirety for November and December 2016, as well as January 2017. Pursuant to section 67 of the *Act* and based on the landlord's uncontested evidence, I find that the landlord is entitled to a Monetary

Order of \$1,000.00 for unpaid rent.

The landlord has applied to retain the security deposit for this tenancy, using the offsetting provisions of section 72 of the *Act*, I allow the landlord to retain the tenant's \$400.00 security deposit plus applicable interest in partial satisfaction of the monetary award. No interest is payable over this period.

As the landlord was successful in his application, he can, pursuant to section 72 of the *Act*, recover the cost of the \$100.00 filing fee from the tenant.

### Conclusion

**I am granting the landlord an Order of Possession to be effective two days after notice is served to the tenant.** If the tenant does not vacate the rental unit within the two days required, the landlord may enforce this Order in the Supreme Court of British Columbia.

**I am making a Monetary Order of \$700.00 in favour of the landlord as follows:**

Item	Amount
Rental Arrears for November 2016	\$200.00
Rental Arrears for December 2016	400.00
Rental Arrears for January 2016	400.00
Less Security Deposit	<b>-\$400.00</b>
Recovery of Filing Fee	<b>100.00</b>
<b>Total Monetary Award</b>	<b>\$700.00</b>

The landlord is provided with formal Orders in the above terms. Should the tenant 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: January 24, 2017

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Residential Tenancy Branch

