



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      FF, MNDC, MNSD, OPB

### Introduction

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

- a. An Order for Possession based on a provision in the tenancy agreement that the tenancy would end and the tenant would vacate the rental unit.
- b. A monetary order 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 Application for Dispute Resolution/Notice of Hearing was served on the Tenant by mailing, by registered mail to where the Tenant resides on March 16, 2017.

### 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 tenancy began 3 years ago when the parties entered into a one year fixed term written tenancy agreement. The parties have entered into two subsequent fixed term tenancy agreement with the latest providing that the tenancy would start on March 1, 2016 and end on February 28, 2017. The tenancy agreement included a term signed by both parties that provided that at the end of the fixed term "the tenancy is ended and the tenant must vacate the rental unit." The rent is \$900 per month payable on the first day of each month. The tenant paid a security deposit of \$450 on February 5, 2014.

The rent was paid for March and accepted by the landlord for use and occupation only. The tenant continues to resides in the rental unit.

Settlement:

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 parties mutually agree to end the tenancy on April 15, 2017 and the tenant shall vacate the rental unit on or before that date.
- b. The parties request the arbitrator issue an Order of Possession for April 15, 2017.
- c. The landlord shall be entitled to a monetary order in the sum of \$450 for non payment for rent for the period April 1, 2017 to April 15, 2017.
- d. The landlord waives its claim for loss of rent for the period after April 15, 2017 provided the tenant vacates the rent by that date.

Analysis - Order of Possession:

As a result of the settlement I granted an Order of Possession effective April 15, 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:

As a result of the settlement I ordered that the Tenant pay to the Landlord the sum of \$450.

I dismissed the claim to retain the security deposit with liberty to re-apply. I dismissed the claim for the cost of the filing fee as it was not part of the settlement.

Conclusion:

I granted an Order of Possession effective April 15, 2017. I ordered the Tenant pay to the Landlord the sum of \$450.

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.

**This decision is final and binding on both parties.**

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: April 07, 2017

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Residential Tenancy Branch