



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding PACIFIC COVE PROPERTY MANAGEMENT LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNSD, MNDC, MNR, OPR, FF

### Introduction

This hearing convened as a result of the Landlord's Application for Dispute Resolution wherein the Landlord requested monetary compensation from the Tenant for unpaid rent, authority to retain the security deposit, an Order of Possession and to recover the filing fee.

The hearing was conducted by teleconference on April 18, 2017 at 10:30 a.m. Only the Landlord's representative and building manager, T.L., called into the hearing. She gave affirmed testimony and was provided the opportunity to present the Landlord's evidence orally and in written and documentary form, and to make submissions to me.

T.L. testified that she personally served the Tenant with the Notice of Hearing and the Application on March 16, 2017. Accordingly, I find the Tenant was duly served as of March 16, 2017 and I proceeded with the hearing in their absence.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, not all details of the Landlord's submissions and or arguments are reproduced here; further, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issues to be Decided

1. Is the Landlord entitled to monetary compensation for unpaid rent and recovery of the filing fee?
2. Should the Landlord be authorized to retain the Tenant's security deposit?
3. Is the Landlord entitled to an Order of Possession?

### Background and Evidence

T.L. testified as to the terms of the tenancy as well as providing a copy of the residential tenancy agreement in evidence. The tenancy began February 1, 2015; monthly rent was payable in the amount of \$785.00 and the Tenant paid a security deposit in the amount of \$392.50. At the time of the hearing, monthly rent was \$808.00 (copies of the Notice of Rent Increase were also provided in evidence).

The Tenant failed to pay rent for January 2017, February 2017 and March 2017 and as a result the Landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities indicating the sum of \$2,424.00 was owed as of March 1, 2017 (the "Notice").

T.L. testified that she personally served the Notice on the Tenant on March 3, 2017. The Notice informed the Tenant that the Notice would be cancelled if the rent was paid within five days of service, namely, March 8, 2017. The Notice also explains the Tenant had five days from the date of service to dispute the Notice by filing an Application for Dispute Resolution.

T.L. further testified that the Tenant failed to pay the outstanding rent or make an application for dispute resolution within five days as required by section 46 of the *Residential Tenancy Act*.

### Analysis

Based on the above, the Landlord's representative's undisputed testimony and evidence, and on a balance of probabilities, I find as follows:

The Tenant has not paid the outstanding rent and did not apply to dispute the Notice and is therefore conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the Notice.

Under section 26 of the *Act*, the Tenant must not withhold rent, even if the Landlord is in breach of the tenancy agreement or the *Act*, unless the Tenant has some authority under the *Act* to not pay rent. In this situation the Tenant had no such authority.

I find that the Landlord is entitled to an order of possession effective **two days** after service on the Tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

I further find that the Landlord has established a total monetary claim of \$3,332.00 comprised of unpaid rent for January, February, March and April 2017 and the \$100.00 fee paid by the Landlord for this application.

I authorize the Landlord to retain the Tenant's security deposit of \$392.50 in partial satisfaction of the amount awarded and I grant the Landlord a Monetary Order under section 67 of the *Act* for the balance due of **\$2,939.50**. This Monetary Order may be filed in the Provincial Court (Small Claims) and enforced as an Order of that Court.

### Conclusion

The Tenant failed to pay rent and did not file to dispute the 10 Day Notice to End Tenancy. The Tenant is presumed under the law to have accepted that the tenancy ended on the effective date of the Notice to End Tenancy.

The Landlord is granted an Order of Possession, may keep the Tenant's security deposit in partial satisfaction of the claim, and is granted a Monetary Order in the amount of **\$2,939.50** for the balance due.

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 18, 2017

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Residential Tenancy Branch