



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding METRO VANCOUVER HOUSING CORPORATION  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MNR, FF

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for:

- an Order of Possession for unpaid rent pursuant to section 55;
- a Monetary Order for unpaid rent pursuant to section 67; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

As both parties were in attendance I confirmed that there were no issues with service of the landlord's 10 Day Notice, the landlord's application for dispute resolution or any evidentiary materials. The parties confirmed receipt of the materials. In accordance with sections 88 and 89 of the *Act*, I find that the parties were duly served with copies of the landlord's 10 Day Notice, the landlord's application and all evidence.

At the outset of the hearing, the landlord made an application requesting to amend the monetary amount of the claim sought. The landlord indicated that since the application was filed the tenant has failed to pay the rent for subsequent months and the corrected total arrears for this tenancy as of the date of the hearing is \$3,434.00. As additional rent becoming due is reasonably foreseeable, pursuant to section 64(3)(c) of the *Act* and Rule 4.2 of the Rules of Procedure I amend the landlord's Application to increase the landlord's monetary claim from \$1,688.00 to \$3,434.00.

### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent?

Is the landlord entitled to monetary compensation as claimed?

Is the landlords entitled to recover the filing fee for this application from the tenant?

### Background and Evidence

The parties agreed on the following facts. This month-to-month tenancy began in December, 2012. The current rent is \$1,021.00 payable on the 1<sup>st</sup> of the month. A security deposit of \$457.50 was paid by the tenant at the start of the tenancy and is still held by the landlord. The tenant continues to reside in the rental unit at the time of the hearing.

The landlord testified that at the time the 10 Day Notice dated March 2, 2017 was issued the tenancy was in arrears by \$2,388.00, the amount initially sought in the 10 Day Notice. The landlord testified that the tenant provided a cheque making partial payment of \$700.00 but it was returned NSF.

The tenant testified that there have been personal difficulties but he has been making periodic payments against the rent arrear. The parties confirmed that as of the date of the hearing, the total rent arrear is \$3,434.00.

### Analysis

I find that the tenant was obligated to pay the monthly rent in the amount of \$1,021.00. I accept the evidence before me that the tenant failed to pay the full rent due within the 5 days of service granted under section 46(4) of the *Act* nor did the tenant dispute the 10 Day Notice within that 5 day period. Accordingly, I find that the tenant is conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy ended on the corrected effective date of the 10 Day Notice, March 15, 2017. Therefore, I find that the landlord is entitled to an Order of Possession, pursuant to section 55 of the *Act*.

I accept the parties' evidence that the total amount of arrears for this tenancy is \$3,434.00. I issue a monetary award for unpaid rent owing of \$3,434.00 as at April 18, 2017, the date of the hearing, pursuant to section 67 of the *Act*.

In accordance with sections 38 and the offsetting provisions of 72 of the *Act*, I allow the landlord to retain the tenant's \$457.50 security deposit in partial satisfaction of the monetary award issued in the landlord's favour.

As the landlord's application was successful, the landlord is also entitled to recovery of the \$100.00 filing fee for the cost of this application.

Conclusion

I grant an Order of Possession to the landlord effective **2 days after service on the tenant**. Should the tenant or anyone on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I issue a monetary order in the landlord's favour in the amount of \$3,076.50 under the following terms, which allows the landlords to recover unpaid rent, and the filing fee for their application less the security deposit:

Item	Amount
Unpaid Rent January	\$3,434.00
Less Security Deposit	-\$457.50
Filing Fees	\$100.00
<b>Total Monetary Order</b>	<b>\$3,076.50</b>

The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

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