



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes:**

CNR, OPR, MNR, **MNSD**, **MNDC**, ERO, RR, FF

### **Introduction**

This hearing was convened in response to cross- applications by the landlord and tenant pursuant to the *Residential Tenancy Act* (the Act) for Orders as follows:

Landlord:

1. An Order of Possession - Section 55
2. A Monetary Order for unpaid rent - Section 67
3. An Order to retain the security deposit - Section 38
4. An Order to recover the filing fee for this application - Section 72.

Tenant:

1. Cancel a Notice to End for unpaid rent - Section 46
2. Order landlord to make emergency repairs / repairs - Section 33(5)
3. A Monetary Order for loss - Section 67
4. An Order to recover the filing fee for this application - Section 72.

Despite having filed their own application for this proceeding and having been personally served with the landlord's application for dispute resolution and the notice of hearing on March 11, 2017, the tenant did not participate in the conference call hearing. The landlord was given full opportunity to be heard, to present evidence and to make submissions.

### **Issue(s) to be Decided**

Is the notice to end tenancy valid?

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to the monetary amounts claimed?

### **Background and Evidence**

The landlord testified that since March 31, 2017 they observed the rental unit in transition from occupancy. On April 04, 2017 they came upon the rental unit largely vacant but with some of the tenant's belongings remaining. The landlord is not confident the tenant has completely vacated.

In this tenancy the payable rent is \$1650.00. The landlord holds a security deposit of \$850.00 in trust. The tenant failed to pay rent in the month of March 2017 and on March 02, 2017 the landlord personally served the tenant with a notice to end tenancy for non-payment of rent. The tenant further failed to pay rent for April 2017 and appears to have vacated.

### **Analysis**

As the tenant did not participate in the hearing to advance his claim, their claim is dismissed without leave to reapply.

Based on the landlord's evidence I find that the tenant was served with a notice to end tenancy for non-payment of rent and I find the notice to be valid. The tenant has not paid the outstanding rent and despite applying to dispute the notice did not attend the hearing. Based on the above facts I find that the landlord is entitled to an **Order of Possession**.

I also find the landlord has established a monetary claim for unpaid rent. I grant the landlord unpaid rent for March 2017 and one half month's rent for April 2017. If necessary the landlord has liberty to reapply. The landlord is also entitled to recover the filing fee. The security deposit will be off-set from the award made herein.

#### *Calculation for Monetary Order*

Unpaid rent March 2017	\$1650.00
Loss of revenue April 2017	\$825.00
Filing Fee	\$100.00
<i>Less Security Deposit</i>	<i>-\$825.00</i>
<b>Total Monetary Award</b>	<b>\$1750.00</b>

**I grant an Order of Possession** to the landlord **effective 2 days from the day it is served** on the tenant. The tenant must be served with this Order of Possession. Should the tenant fail to comply with the Order, the Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

**I Order** that the landlords retain the security deposit of \$825.00 in partial satisfaction of the claim and I grant the landlord an Order under Section 67 of the Act for the balance due of **\$1750.00**. If necessary, this Order may be filed in the Small Claims Court and enforced as an Order of that Court.

**Conclusion**

The tenant's claim is dismissed. The landlord is granted an Order of Possession and a Monetary Order for \$1750.00.

**This Decision is final and binding.**

*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 05, 2017

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Residential Tenancy Branch