



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, MND, MNSD, FF

### Introduction

This hearing was reconvened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order of Possession - Section 55; and
2. A Monetary Order for unpaid rent - Section 67.

I accept the Landlord’s evidence that the Tenant was served with the application for dispute resolution and notice of hearing by registered mail in accordance with Section 89 of the Act. The application was originally scheduled to be heard ex parte through the direct request proceedings. The matter was then adjourned by an Interim Decision dated May 9, 2018 to this participatory hearing. I accept the Landlord’s evidence that the Interim Decision and Notice of Reconvened hearing was received by the Landlord on or about May 23, 2016 and was given to the Tenant in person on May 23, 2017 as ordered in the Interim Decision. The Tenant did not attend the hearing. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

### Issue(s) to be Decided

Is the Landlord entitled to an order of possession?

Is the Landlord entitled to unpaid rent?

### Background and Evidence

The tenancy started on July 4, 2016. No security deposit was paid. The Landlord states that this is not a vacation rental. The Landlord states that rent of \$375.00 is payable every two weeks or rent of \$750.00 is payable every 4 weeks. The Landlord provides a written submission of rents paid with July 4, 2016 being the first rental date. No amounts of rent are noted as being paid until December 20, 2016 however the submission indicates that rents are paid to this date. In clarifying this evidence the Landlord states that from December 20, 2016 to March 28, 2016 the Tenant has only paid a total of \$775.00.

On March 29, 2017 the Landlord served the Tenant with a 10 day notice to end tenancy for unpaid rent (the "Notice"). The Notice indicates that the Tenant failed to pay \$2,600.00 due March 28, 2017. The Tenant has not disputed the Notice, has not moved out of the unit and has not paid the outstanding rent set out on the Notice. The Landlord claims an order of possession and unpaid rent of \$2,600.00.

### Analysis

Section 46 of the Act requires that upon receipt of a 10 notice to end tenancy for unpaid rent the tenant must, within five days, either pay the full amount of the arrears indicated on the notice or dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. If the tenant does neither of these two things, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice. Based on the undisputed evidence of the Landlord I find that the Landlord gave the Tenant the Notice and that the Tenant did not dispute the Notice, did not pay the arrears on the Notice and has not moved out of the unit. As a result I find that the Landlord is entitled to an order of possession.

Section 26 of the Act provides that a tenant must pay rent when it is due under the tenancy agreement. Based on the undisputed evidence of the Landlord that rent of \$750.00 is payable every 4 weeks, I find that for the period December 20, 2016 to March 28, 2017 the Tenant should have paid \$2,625.00 as follows:

- \$750.00 for December 20, 2016 to January 16, 2017;
- \$750.00 for January 17 to February 13, 2017;
- \$750.00 for February 14 to March 13, 2017; and
- \$375.00 for March 14 to March 28, 2017.

Based on the Landlord's undisputed evidence that the Tenant has only paid a total of **\$775.00** for this period I deduct this amount from the **\$2,625.00** and find that the Landlord has only substantiated unpaid rent of **\$1,850.00** for the above period.

#### Conclusion

**I grant** an Order of Possession to the Landlord. 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 grant the Landlord an order under Section 67 of the Act for **\$1,850.00**. If necessary, this order may be filed in the Small Claims 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: June 20, 2017

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Residential Tenancy Branch