



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding VANCOUVER EVICTION SERVICES  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      FF MNDC MNR OPC OPR

### Introduction

This hearing was convened in response to applications by the landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

The application from the landlord requested:

- an Order of Possession for non-payment of rent and utilities pursuant to section 46 of the *Act*;
- an Order of Possession based on a 1 Month Notice to End Tenancy for Cause pursuant to section 49 of the *Act*;
- a Monetary Order pursuant to section 67 of the *Act* for unpaid rent and for money owed for damage or loss under the *Act*; and
- authorization to recover the filing fee for this application from the tenants pursuant to section 72 of the *Act*.

Only agent for the landlord, S.M. (the “landlord”) participated in the conference call hearing. S.M. confirmed that he had full authority to speak on behalf of, and make decisions for the landlord. S.M. was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord testified that both a 10 Day Notice to End Tenancy for Non-Payment of Rent and Utilities (“10 Day Notice”) and a 1 Month Notice to End Tenancy for Cause (“1 Month Notice”) were posted on the tenants’ door on May 5, 2017. A proof of service document was submitted to the hearing as part of the landlord’s evidentiary package. Pursuant to sections 88 and 90 of the *Act*, I find the tenants were served with both notices on May 8, 2017.

On May 27, 2017, the landlord, sent by Registered Mail, two copies of the Landlord's application for Dispute Resolution Package and evidentiary packages to each of the tenants. Canada Post tracking numbers were provided to the hearing, along with copies of the receipts. Pursuant to sections 89 and 90 of the *Act* the tenants are deemed to have been served with these documents on June 1, 2017.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Can the landlord retain the security deposit against any monetary award issued?

Is the landlord entitled to a Monetary Order?

Can the landlord recover the filing fee from the tenants?

Background and Evidence

Testimony and a copy of the Residential Tenancy Agreement provided by the landlord demonstrate that the tenancy in question began on March 1, 2017. Monthly rent was \$3,000.00 and a security deposit of \$1,500.00 collected at the outset of the tenancy was returned to the landlord by the bank for insufficient funds.

The landlord provided undisputed testimony that on May 5, 2017 a 10 Day Notice was issued to the tenants for non-payment of rent, while a 1 Month Notice was also served on the tenants for repeated late payment of rent. The landlord explained that rent has not been paid at all for the duration of the tenancy. The landlord is seeking a Monetary Order of \$15,000.00 to recover unpaid rent for this time period.

Specifically the landlord is seeking:

Item	Amount
Rental Arrears for March 2017	\$3,000.00
Rental Arrears for April 2017	3,000.00
Rental Arrears for May 2017	3,000.00
Rental Arrears for June 2017	3,000.00
Rental Arrears for July 2017	3,000.00
Recovery of Filing Fee	100.00

<b>Total Monetary Award</b>	<b>\$15,100.00</b>

### Analysis

The tenants failed to pay the unpaid rent within five days of receiving the 10 Day Notice to End Tenancy. The tenants have not made application pursuant to section 46(4) of the *Act* within five days of receiving the 10 Day Notice. In accordance with section 46(5) of the *Act*, the tenants' failure to take either of these actions within five days led to the end of their tenancy on the effective date of the notice. In this case, this required the tenants to vacate the premises by May 15, 2017. As that has not occurred, I find that the landlord is entitled to a 2 day Order of Possession. The landlord will be given a formal Order of Possession which must be served on the tenants. If the tenants do not vacate the rental unit within the 2 days required, the landlord may enforce this Order in the Supreme Court of British Columbia.

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage. In this case, the onus is on the landlord to prove his entitlement to a claim for a monetary award.

The landlord sought a monetary order of \$15,000.00, which was the amount in unpaid rent for March, April, May, June and July 2017.

No evidence was presented by the tenants to dispute this. I find based on the landlord's undisputed testimony that this amount remains outstanding and unpaid, and the landlord is entitled to the entire sum requested in his application for a Monetary Order.

As the landlord was successful in his application, he may recover the \$100.00 filing fee from the tenants.

The landlord's application for an Order of Possession based on a 1 Month Notice to End Tenancy for Cause will not be considered as this tenancy is ending on the basis of the landlord's 10 Day Notice.

Pursuant to section 67 of the *Act*, I find that the landlord is entitled to receive a monetary order for unpaid rent for \$15,100.00. Should the tenants fail to comply with these Orders, these Orders may be filed and enforced as Orders of the Provincial Court of British Columbia.

### Conclusion

I am granting the landlord an Order of Possession to be effective two days after notice is served to the tenants. Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I am making a Monetary Order of \$15,100.00 in favour of the landlord as follows:

Item	Amount
Rental Arrears for March 2017	\$3,000.00
Rental Arrears for April 2017	3,000.00
Rental Arrears for May 2017	3,000.00
Rental Arrears for June 2017	3,000.00
Rental Arrears for July 2017	3,000.00
Recovery of Filing Fee	100.00
<b>Total Monetary Award</b>	<b>\$15,100.00</b>

The landlord is provided with formal Orders in the above terms. Should the tenants fail to comply with these Orders, these Orders may be filed and enforced as Orders of the Provincial Court of British Columbia.

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: July 11, 2017

---

Residential Tenancy Branch