



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPC, MNR, MNSD & FF

### Introduction

The Application for Dispute Resolution filed by the landlord makes the following claims:

- a. An Order for Possession pursuant to a one month Notice to End Tenancy for cause.
- b. A monetary order in the sum of \$2650 for unpaid rent and damages
- c. An Order to retain the security deposit.
- d. An order to recover the cost of the filing fee

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present. The parties acknowledged they had received the documents of the other party.

I find that the one month Notice to End Tenancy was personally served on the Tenant on March 14, 2017. Further I find that the Application for Dispute Resolution/Notice of Hearing was personally served on the Tenant on June 6, 2017. With respect to each of the applicant's claims I find as follows:

### Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the landlord is entitled to an Order for Possession?
- b. Whether the landlord is entitled to A Monetary Order and if so how much?
- c. Whether the landlord is entitled to retain all or a portion of the security deposit/pet deposit?
- d. Whether the landlord is entitled to recover the cost of the filing fee?

### Background and Evidence

The parties entered into a written tenancy agreement that provided that the tenancy would start on July 16, 2011. The rent was \$850 per month payable on the first day of each month. The tenant paid a security deposit of \$425 prior to the start of the tenancy.

The landlord served a one month Notice to End Tenancy on the Tenant on March 14, 2017 for repeated late payment of rent. The Notice incorrectly set the end of tenancy date for April 15, 2017. The Act self corrects an incorrectly dated Notice. In this case the corrected end of tenancy date is April 30, 2017.

The tenant continues to reside in the rental unit. He has paid the rent and no rent is outstanding at the present time.

The tenant sought to remain in the rental unit based on the following:

- The tenant(s) lost his job and is trying to get back on his feet.
- He has attempted to find another rental unit but has not been successfully.
- His son lives nearby with his mother (who has health problems) and he plays an active role in his son's life and the life of other kids in the community.

The landlord submitted they are legally entitled to an Order of Possession. They have given the tenants breaks on many occasions and it is time for the tenancy to end. They previously applied for an Order of Possession but did not proceed with it after the tenant's assurance his was moving. The landlord is not prepared to give the tenant any further extension.

### Analysis - Order of Possession:

I determined the landlord was entitled to an Order for Possession. The landlord served a one month Notice to End Tenancy on the Tenant on March 14, 2017. The Tenant(s) have not made an application to set aside the Notice to End Tenancy and the time to do so has expired. In such situations the Residential Tenancy Act provides the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and must vacate the rental unit by that date. Accordingly, I granted the landlord an Order for Possession. The rent has been paid for July. I set the effective date of the Order of Possession for July 31, 2017.

The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court of British Columbia for enforcement.

Analysis - Monetary Order and Cost of Filing fee:

I dismissed the landlord's claim for non payment of rent as all rent has been paid. I dismissed the claim to keep the security deposit and for the cost of cleaning as those claims are premature. The landlord has liberty to re-apply.

The landlord has been successful with the application for an Order of Possession. I determined the landlord was entitled to recover the cost of the filing fee from the Tenant. I ordered the Tenant to pay to the Landlord the sum of \$100 for the cost of the filing fee.

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial Court and enforced as an Order of that Court.

**This decision is final and binding on both parties.**

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 25, 2017

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Residential Tenancy Branch