



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Dispute Codes:

OPR, MNR, MND, MNSD, MNDC, FF

### Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for an Order of Possession for Unpaid Rent or Utilities, a monetary Order for unpaid rent or utilities, a monetary Order for damage, a monetary Order for money owed or compensation for damage or loss, to retain all or part of the security deposit, and to recover the fee for filing this Application for Dispute Resolution.

The Landlord stated that on June 02, 2017 she personally served the Tenant with the Application for Dispute Resolution and the Notice of Hearing. The Tenant stated that he received these documents on June 03, 2017.

On June 08, 2017 the Landlord submitted 8 pages of evidence to the Residential Tenancy Branch. The Landlord stated that this evidence was not served to the Tenant. As the evidence was not served to the Tenant, it was not accepted as evidence for these proceedings.

The parties were given the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions. The parties were advised of their legal obligation to speak the truth during these proceedings.

### Preliminary Matter #1

Rule 2.3 of the Residential Tenancy Branch Rules of Procedure authorizes me to dismiss unrelated disputes contained in a single application. In these circumstances the Landlord has identified several issues in dispute on the Application for Dispute Resolution, which are not sufficiently related to be determined during these proceedings.

The most urgent issue in dispute is possession of the rental unit and I will, therefore, only consider issues related to the Landlord's attempt to end the tenancy, which include the Landlord's application for an Order of Possession; the Landlord's application for a monetary Order for unpaid rent; and the fee paid to file this Application.

The application for compensation for damage to the rental unit and to retain the security deposit is dismissed, with leave to re-apply.

### Preliminary Matter #2

At the outset of the hearing the Tenant requested an adjournment for the purposes of obtaining and submitted a copy of a police report regarding the Landlord entering his unit without lawful authority. I do not find that this police report is sufficiently related to the issues in dispute at these proceedings and I therefore denied the request for an adjournment.

### Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession?

Is the Landlord entitled to a monetary Order for unpaid rent?

### Background and Evidence

The Landlord and the Tenant agree that:

- this tenancy began on June 01, 2016;
- the Tenant agreed to pay monthly rent of \$690.00 by the first day of each month;
- the Tenant paid a security deposit of \$345.00; and
- no rent has been paid for July of 2017.

The Landlord stated that the Tenant did not pay any rent for May or June of 2017.

The Tenant stated that on May 06, 2017 he paid \$690.00 in rent for May of 2017 and on June 01, 2017 he paid \$690.00 in rent for June of 2017.

The Landlord and the Tenant agree that rent was typically paid in cash. The Landlord stated that he has never received a receipt for rent that was paid in cash, although he did receive a receipt for the security deposit, which he paid in cash.

The Landlord stated that she gave the Tenant a receipt for rent payments that were made for June, July, August, September, and October of 2016 and for January of 2017. She stated that she offered to give receipts for rent payments that were made for November and December of 2016 and for February, March, and April of 2017 but she did not issue them because the Tenant stated he did not want them.

The Landlord is seeking compensation for unpaid rent from May, June, and July of 2017.

The Landlord stated that on May 05, 2017 she knocked on the door of the rental unit and she was invited to enter by the Tenant. She stated that she walked into the unit and saw the Tenant lying on his bed, at which time she handed the Tenant a Ten Day Notice to End Tenancy. The Landlord is unable to explain why the Application for Dispute Resolution declares the Notice was posted on the door of the rental unit on May 05, 2017.

The Tenant stated that when he returned to the rental unit on May 05, 2017 he found the Ten Day Notice to End Tenancy on his bed. He stated that he did not dispute the Notice because he paid the rent on May 06, 2017.

The Landlord and the Tenant agree that the Ten Day Notice to End Tenancy, dated May 05, 2017 declares that the rental unit must be vacated by May 10, 2017.

### Analysis

On the basis of the undisputed evidence, I find that the Tenant typically paid his rent in cash. I find that there is no evidence to show that the Landlord consistently provided the Tenant with a receipt every time he paid his rent in cash.

There is a general legal principle that places the burden of proving a loss on the person who is claiming compensation for the loss. In regards to the claim for unpaid rent, the burden of proving that rent was not paid rests with the Landlord.

Section 26(2) of the *Act* stipulates that a landlord must provide a receipt when rent is paid by cash. Cash receipts help to establish when a rent payment has not been made. When a landlord regularly provides receipt for cash payments there is an expectation that a tenant will produce a receipt for every cash payment that has allegedly been made. When a tenant is unable to provide a receipt for an alleged payment, it lends credibility to a landlord's claim that a cash payment has not been made. When a tenant has previously made cash payments and has not consistently been provided with receipts, there can be no

expectation that the tenant will provide a receipt for all cash payments that have been made.

I find that the Landlord's failure to consistently provide receipts for cash payments made during this tenancy has significantly impaired her ability to prove that the Tenant did not pay his rent in cash in May and June of 2017. The Landlord did not submit any other evidence, such as a copy of a payment ledger, to corroborate her claim that the Tenant did not pay rent for these months. I find that the Landlord has submitted insufficient evidence to establish that the Tenant did not pay rent for May and June of 2017 and I therefore dismiss her claim for unpaid rent for those months.

On the basis of the undisputed evidence I find that the Tenant has not paid rent for July of 2017. I therefore find that he owes the Landlord \$690.00 in rent for July of 2017.

On the basis of the undisputed evidence I find that on May 05, 2017 the Tenant received the Ten Day Notice to End Tenancy for Unpaid Rent, which is dated May 05, 2017.

Section 46(4)(a) of the *Residential Tenancy Act (Act)* stipulates that within 5 days after receiving a Ten Day Notice to End Tenancy the tenant may pay the overdue rent, in which case the notice has no effect. As the Landlord has submitted insufficient evidence to establish that the overdue rent of \$690.00 was not paid on May 06, 2017, as the Tenant contends, I find I cannot conclude that this Notice to End Tenancy has not been rendered ineffective, pursuant to section 46(4)(a) of the *Act*.

As the Landlord has submitted insufficient evidence to show that the Ten Day Notice to End Tenancy for Unpaid Rent, dated May 05, 2017, has not been rendered ineffective pursuant to section 46(4)(a) of the *Act*, I dismiss her application for an Order of Possession.

I find that the Landlord's application has some merit and that the Landlord is entitled to recover the cost of filing this Application for Dispute Resolution.

To provide further clarity to this tenancy, I order the Landlord to provide the Tenant with a rent receipt for every rent payment that is made in cash from this day forward. In the event the Landlord is not willing to provide a rent receipt, the Tenant would be well advised the pay the rent in a more traceable manner.

Conclusion

The application for an Order of Possession has been dismissed. This tenancy shall continue until it is ended in accordance with the *Act*.

The Landlord has established a monetary claim, in the amount of \$790.00, which includes \$690.00 in unpaid rent for July of 2017 and \$100.00 in compensation for the fee paid to file this Application for Dispute Resolution. Based on these determinations I grant the Landlord a monetary Order for the \$790.00. In the event the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia 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 *Act*.

Dated: July 05, 2017

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Residential Tenancy Branch