



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes FF, MNDC, OLC, PSF, RR, FF, MNDC, OPB

### Introduction

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

- a. A monetary order in the sum of \$197.53
- b. An order that the landlord provide services or facilities required by law
- c. An order that the landlord comply with the Act, regulation and/or the tenancy agreement
- d. An order that the landlord reduce rent for repairs, services or facilities agreed upon but not provided.
- e. An order that the tenant recover the cost of the filing fee

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

- a. An Order for Possession based on a fixed term tenancy agreement that provided that the tenant must vacate at the end of the fixed term.
- b. A monetary order in the sum of \$3000 for unpaid rent for over-holding
- c. 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.

I find that the Application for Dispute Resolution/Notice of Hearing filed by each party was sufficiently served on the other by mailing, by registered mail to where the other party resides. 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 tenant is entitled to a monetary order and if so how much?
- b. Whether the tenant is entitled to recover the cost of the filing fee?
- c. Whether the landlord is entitled to an Order for Possession?

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

#### Background and Evidence

The parties entered into a fixed term written tenancy agreement in the standard form that provided that the tenancy would start on September 1, 2016, end on April 30, 2017 and that the tenant would have to vacate at that time. However, the parties failed to initial the box beside this provision. The rent was \$1000 per month. The tenancy agreement provided that the tenant was required to pay a security deposit of \$500.

The tenant failed to vacate at the end of April. He submits he is not required to vacate because the parties failed to initial the box. The landlords submit the parties entered into a fixed term tenancy agreement. The tenancy ended on April 30, 2017 and that the tenant is required to vacate. They testified they need the rental unit for the own family use.

The tenant has tendered the rent for May, June and July. The landlords refused to cash it. The landlord take the position the tenant has over-held and they are entered to a monetary order in their favor in the sum of \$3000 for the months of May, June and July. The tenant claims over \$700 on the basis the landlords have cut off cable and internet access. Both parties claim the cost of the filing fee.

#### Settlement:

At the end of the hearing the parties reached a settlement and they asked that I record the settlement pursuant to section 63(2) of the Residential Tenancy Act as follows:

- a. The parties mutually agree to end the tenancy on July 31, 2017.
- b. The parties request the arbitrator to issue an Order of Possession for July 31, 2017.
- c. The tenant shall pay to the landlords the sum of \$1500 for over-holding rent.
- d. The tenant previously provided the landlords with an e-mail transfer in the sum of \$1000 for rent for July and provided the landlords are able to cash this e-mail transfer it shall be applied to the monetary order reducing the amount outstanding to \$500.
- e. This is a full and final settlement of the landlords' claim for over-holding rent for May, June and July 2017 and the landlords release and discharge the Tenant from all further claims for rent..
- f. This is a full and final settlement of the tenant's claims against the landlords to July 18, 2017 and the Tenant releases and discharges the landlord from all further claims.

#### Analysis - Order of Possession:

As a result of the settlement I granted the landlord an Order for Possession effective 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 ordered that the tenant pay to the landlords the sum of \$1500.

All other claims brought by each party are dismissed without leave to re-apply.

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 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 18, 2017

---

Residential Tenancy Branch