



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute codes      OPC MND MNSD FF

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the Act) for:

- an order of possession for cause pursuant to section 55;
- a monetary order for damage to the rental unit pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The hearing was conducted by conference call. The tenant did not attend this hearing, although I waited until 9:17 a.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 9:00 a.m. The landlord attended the hearing and was given a full opportunity to provide affirmed testimony, to present evidence and to make submissions.

The landlord testified that on June 6, 2017, a copy of the Application for Dispute Resolution and Notice of Hearing was sent to the tenant by registered mail. The landlord provided a registered mail tracking number in support of service. The landlord testified she also served the hearing package by posting a copy to the door of the rental unit on this same date.

Based on the above evidence, I am satisfied that the tenant was deemed served with the Application for Dispute Resolution and Notice of Dispute Resolution Hearing pursuant to sections 89 & 90 of the Act. The hearing proceeded in the absence of the tenant.

### Preliminary Issue – Amendment to Landlord's Application

Paragraph 64(3)(c) of the Act allows me to amend an application for dispute resolution.

At the hearing, the landlord requested to withdraw her application for damage to the rental unit until after the tenancy has ended. I therefore allowed the landlord's request for an amendment.

### Issues

Is the landlord entitled to an order of possession for cause?

Is the landlord entitled to recover the filing fee for this application from the tenant?

### Background and Evidence

The tenancy for this 2 bedroom apartment unit was in place at the time the landlord purchased the rental property in 2004. The current monthly rent is \$710.00 payable on the 1<sup>st</sup> day of each month. The tenant paid a security deposit of \$300.00 at the start of the tenancy which the landlord continues to hold.

The landlord testified that on April 27, 2017 the 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) was sent to the tenant by registered mail. The landlord provided a registered mail tracking number in support of service. The landlord testified she also served the tenant with the 1 Month Notice by posting a copy to the door of the rental premises on April 29, 2017.

### Analysis

I am satisfied that the tenant was deemed served with the 1 Month Notice to End Tenancy for Cause on May 2, 2017, three days after its posting and five days after its mailing, pursuant to sections 88 & 90 of the Act.

Pursuant to section 47 of the *Act*, the tenant may make a dispute application within ten days of receiving the 1 Month Notice. If, as in the present case, the tenant does not make an application for dispute within ten days, the tenant is conclusively presumed to have accepted that the tenancy ended on the "corrected" effective date of the Notice, June 30, 2017.

I find that the Notice issued by the landlord complies with the requirements of Section 52 of the Act, accordingly, the landlord is granted an Order of Possession pursuant to section 55 of the Act.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee paid for this application for a total monetary award of \$100.00.

The landlord continues to hold a security deposit of \$300.00. I allow the landlord to retain \$100.00 from the security deposit in full satisfaction of the monetary award pursuant to section 38 of the Act.

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant. 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.

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 26, 2017

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Residential Tenancy Branch