



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Bayside Property Services Ltd  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MNR, MNSD, FF

### Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking an order of possession and a monetary order.

The hearing was conducted via teleconference and was attended by the landlord's agent

The landlord's agent testified the tenant was served with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* by registered mail on June 23, 2017 in accordance with Section 89. Section 90 of the *Act* deems documents served in such a manner to be received on the 5<sup>th</sup> day after they have been mailed.

However, the agent also testified that they had confirmed receipt of the package by signature on July 5, 2017.

Based on the testimony of the landlord, I find that the tenant has been sufficiently served with the documents pursuant to the *Act*.

### Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for unpaid rent; to a monetary order for unpaid rent and late fees; for all or part of the security deposit and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 38, 46, 55, 67, and 72 of the *Residential Tenancy Act (Act)*.

### Background and Evidence

The landlord has submitted the following relevant documents as evidence:

- A copy of a tenancy agreement signed by the parties on September 27, 2009 for a 1 year fixed term tenancy beginning on October 1, 2009 that converted to a

month to month tenancy on October 1, 2010 for a monthly rent of \$825.00 due on the 1<sup>st</sup> of each month with a security deposit of \$425.00 paid. The tenancy agreement included a clause that requires the tenant to pay a \$25.00 fee for the late payment of rent and a \$25.00 fee for having a cheque returned to the landlord for insufficient funds;

- A copy of a Notice of Rent Increase dated June 17, 2016 increasing rent to \$906.00 effective October 1, 2016;
- A copy of a tenant account ledger recording amounts owing for rent; late payment and insufficient funds fees;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent issued by the landlord on May 10, 2017 with an effective vacancy date of May 20, 2017 due to \$1,381.00;
- A copy of a Proof of Service – Notice to End Tenancy Document that stipulates the 10 Day Notice was served the tenant by posting it to the door of the rental unit on May 10, 2017 at; and
- A copy of two receipts for use and occupancy only – one receipt is dated May 24, 2017 in the amount of \$400.00 and the second is dated June 2, 2017 in the amount of \$500.00.

Documentary evidence and testimony filed by the landlord indicates the tenant failed to pay the full rent owed for the month of May 2017 and that the tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent by posting it to the rental unit door on May 10, 2017 and that this service was witnessed by a third party.

The landlord submitted that since this Application has been made the due date for two more months' rent has passed and the tenant has made only two additional payments by money order on July 19, 2017 in the amount of \$700.00 each for a total payment of \$1,400.00. The landlord submitted that they issued receipts for use and occupancy for both of these payments.

The landlord submits that as of the date of this hearing the current rental arrears are \$1,680.00 and the late payment and insufficient funds fees total \$200.00.

The Notice states the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant did not pay the rent in full or apply to dispute the Notice to End Tenancy within five days.

### Analysis

I have reviewed all documentary evidence and testimony and accept that the tenant has been served with notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenant on May 13, 2017 and the effective date of the notice is amended to May 23, 2017, pursuant to Section 53 of the *Act*. I accept the evidence before me that the tenant failed to pay the rent owed in full within the 5 days granted under Section 46(4) of the *Act*.

Based on the foregoing, I find the tenant is conclusively presumed under Section 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the Notice.

Based on the landlord's undisputed testimony and documentary evidence, I find the landlord has established the tenant has failed to pay the full rent owing in the amount claimed. Furthermore, I am satisfied the landlord has established the right to charge late fees and insufficient fund fees as they are noted in the signed tenancy agreement and that they are entitled to the charges as claimed.

### Conclusion

I find the landlord is entitled to an order of possession effective **two days after service** on the tenant. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

I find the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$1,980.00** comprised of \$1,680.00 rent owed; \$200.00 late fees and insufficient funds fees; and the \$100.00 fee paid by the landlord for this application.

I order the landlord may deduct the security deposit and interest held in the amount of \$425.00 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$1,555.00**. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be 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: August 04, 2017

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Residential Tenancy Branch