



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding PACIFICA HOUSING ADVISORY ASSOCIATION  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      FF MND MNR MNSD OPR

### Introduction

Pursuant to section 58 of the *Residential Tenancy Act*. (the *Act*), I was designated to hear this matter. This hearing dealt with the landlord's application for:

- an Order of Possession pursuant to section 55 of the *Act* for unpaid rent or utilities;
- a Monetary Order pursuant to section 67 of the *Act* for unpaid rent, and for money owed for damage or loss under the *Act*;
- an application to keep all or part of the damage deposit pursuant to section 38 of the *Act*; and
- recovery of the filing fee from the tenant, pursuant to section 72 of the *Act*.

While the landlord, S.H., attended the hearing by way of conference call, the tenant, did not. The landlord was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord gave undisputed sworn testimony that a 10 Day Notice to End Tenancy for Unpaid Rent ("10 Day Notice") was posted on the door of the rental unit on May 5, 2017. A copy of a signed and dated, proof of service document was provided to the hearing as part of the landlord's evidentiary package. I find that in accordance with sections 88 and 90 of the *Act* the 10 Day Notice was deemed to have been served on the tenant on May 8, 2017.

The landlord testified that the tenant was sent the Landlord's Application for Dispute Resolution hearing package ("dispute resolution hearing package") and evidence by way of Registered Mail on June 19, 2017. The Canada Post tracking number was provided for the hearing. The landlord explained that she checked the Canada Post website and the package was picked up on June 20, 2017. In accordance with sections

89 and 90 of the *Act*, I find the tenant deemed to be served with the landlord's dispute resolution hearing package and evidence on June 24, 2017.

Following opening remarks, the landlord asked if she could amend her Monetary Order to represent unpaid rent for July and August 2017. The landlord stated that the tenant was provided with a 10 Day Notice to End Tenancy in May 2017, that no rent has been paid since its issuance and that the tenant continues to reside in the property. Pursuant to section 63 of the *Act*, I amend the landlord's Monetary Order to reflect unpaid rent of \$650.00 per month for July and August 2017.

#### 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?

Can the landlord apply the security deposit against any Monetary Order issued?

Is the landlord entitled to recovery of the filing fee from the tenant?

#### Background and Evidence

The landlord provided undisputed testimony that the tenancy in question began on April 1, 2017 when the landlord purchased the building. The landlord explained that the tenant was formerly employed by the previous landlord; however, he was relieved of his duties following the purchase. As a sign of good faith the current landlord provide the tenant with free rent for April 2017. Upon purchase of the property, the current landlord discovered that rent for the unit was \$650.00 per month and that no security deposit was ever collected.

The landlord has applied for an Order of Possession and a Monetary Order for non-payment of rent for the months of May, June, July and August 2017. The landlord explained that the tenant was reminded of the change in circumstances surrounding his employment and living situation in two letters. The first was dated March 29, 2017 and the second was dated April 24, 2017. These letters supplied at the hearing as part of the landlord's evidentiary package demonstrate that significant efforts were made to make the tenant aware of rent being due on the first of the month and to inform residents that the tenant was no longer charged with maintenance issues. The landlord

is seeking a monetary order of \$2,700.00 for unpaid rent associated with the tenancy and a return of the filing fee. Specifically the landlord seeks the following:

Item	Amount
Unpaid rent for May 2017	\$650.00
Unpaid rent for June 2017	650.00
Unpaid rent for July 2017	650.00
Unpaid rent for August 2017	650.00
Return of Filing Fee	100.00
Total =	2,700.00

### Analysis

The tenant failed to pay the unpaid rent within five days of receiving the 10 Day Notice to End Tenancy. The tenant has not made application pursuant to section 46(4) of the *Act* within five days of receiving the 10 Day Notice. In accordance with section 46(5) of the *Act*, the tenant's failure to take either of these actions within five days led to the end of her tenancy on the effective date of the notice. In this case, this required the tenant to vacate the premises by May 18, 2017, the corrected effective day of the 10 Day Notice. As that has not occurred, I find that the landlord is entitled to a 2 day Order of Possession. The landlord will be given a formal Order of Possession which must be served on the tenant.

Section 7(1) of the *Act* establishes that a tenant who does not comply with the *Act*, the regulations or the tenancy agreement must compensate the landlord for damage or loss that results from that failure to comply. Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. The landlord provided undisputed oral testimony and written evidence was submitted with the hearing package demonstrating that rent has not been paid for May, June, July and August 2017.

Pursuant to section 67 of the *Act* and based on the landlord's uncontested evidence, I find that the landlord is entitled to a monetary award of \$2,600.00 related to unpaid rent.

As the landlord was successful in her application, she can, pursuant to section 72 of the *Act*, recover the cost of the \$100.00 filing fee from the tenant.

Conclusion

I am granting the landlord an Order of Possession to be effective two days after notice is served to the tenant. If the tenant does not vacate the rental unit within the two days required, the landlord may enforce this Order in the Supreme Court of British Columbia.

I am making a Monetary Order of \$2,700.00 in favour of the landlord as follows:

Item	Amount
Unpaid rent for May 2017	\$650.00
Unpaid rent for June 2017	650.00
Unpaid rent for July 2017	650.00
Unpaid rent for August 2017	650.00
Return of Filing Fee	100.00
<b>Total Monetary Award</b>	<b>\$2,700.00</b>

The landlord is provided with formal Orders in the above terms. Should the tenant fail to comply with these Orders, these Orders may be filed and enforced as Orders of the Provincial 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: August 11, 2017

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Residential Tenancy Branch