



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding NORTHSTAR INTERNATIONAL MOTOR HOTEL  
and [tenant name suppressed to protect privacy]

## **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 its filing fee for this application from the tenant pursuant to section 72.

The landlord's agent, G.M. (the landlord) attended the hearing via conference call and provided undisputed affirmed testimony. The tenant did not attend or submit any documentary evidence. The landlord provided undisputed evidence that the tenant was served with the notice of hearing package and the submitted documentary evidence via Canada Post Registered Mail on July 20, 2017. The landlord has submitted in support of this claim a copy of the Canada Post Customer Receipt label and a printout of an online search which states that a package was received by Canada Post for processing on July 20, 2017 and out for delivery as of July 24, 2017. The landlord also stated that the package was returned by Canada Post as "unclaimed" by the tenant. I accept the undisputed evidence of the landlord and find that the tenant has been properly served as per sections 88 and 89 of the Act. Although the tenant did not pick up the Canada Post Registered Mail package, I find that that the tenant has been sufficiently served as per section 90 of the Act.

### Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order for damages and recovery of the filing fee?

Is the landlord entitled to retain all or part of the security deposit?

### Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

The landlord provided written details stating that although there was no signed tenancy agreement and no condition inspection report for the move-in. This tenancy began on September 1, 2016 on a month-to-month basis with a monthly rent of \$450.00 payable on the 1<sup>st</sup> day of each month. A security deposit of \$225.00 was paid.

The landlord seeks an order of possession as a result of a 1 Month Notice to End Tenancy issued for Cause and a monetary order for \$125.00 in compensation of damage (a broken window) and recovery of the \$100.00 filing fee.

The landlord claims that the tenant "smashed" the window in her room without cause or provocation which resulted in a repair bill of \$125.00. The tenant has refused to pay the bill for the damage (replacement of broken glass). The landlord clarified that the repair of the window was done "in-house" as the breaking of windows is not uncommon. The cost of the window and labour repair is based upon the 8X10 glass and labour and the landlord's experience in these types of matters.

The tenant was served a 1 Month Notice to End Tenancy for Cause dated May 27, 2017 in person on May 27, 2017. The effective date of the notice is June 30, 2017 and provides two reasons for cause selected as:

Tenant has caused extraordinary damage to the unit/site or property/park.  
Tenant has not done required repairs of damage to the unit/site.

The submitted notice also displays details which state:

On or about May 27, 2017, Tenant, without provocation smashed the window in her room with a brick.

In support of this claim the landlord has also provided a copy of a proof of service document which states that the tenant was served in person on May 27, 2017 with a witness for the 1 Month Notice dated May 27, 2017. The landlord also stated that the tenant still resides in the rental unit and the landlord has not been served with notice of an application to dispute the 1 Month Notice.

### Analysis

In an application to cancel a 1 Month Notice, the landlord has the onus of proving on a balance of probabilities that at least one of the reasons set out in the notice is met.

In this case, I accept the undisputed evidence of the landlord and find that the tenant was properly served with the 1 Month Notice dated May 27, 2017 in person based upon the undisputed evidence of the landlord.

Pursuant to Section 47 (4) the tenant may file an application for dispute within 10 days after receiving the notice. In this case, I find that the tenant has failed to file for dispute of the notice and is subject to section 47 (5) where the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the notice and must vacate the rental unit. As such, the landlord has been successful in establishing a claim for an order of possession.

As for the monetary claim for damage of \$125.00 for a broken window, I accept the landlord's undisputed affirmed testimony that the replacement cost of a 8X10 glass plate and labour to replace a window is reasonable based upon the landlord's undisputed testimony.

The landlord having been successful is also entitled to recovery of the filing fee.

As the tenancy is at an end, I authorize the landlord to offset the total claim of \$225.00 (\$125.00 Damage and \$100.00 Filing Fee) against the \$225.00 security deposit currently held by the landlord in satisfaction of this claim.

### Conclusion

The landlord is granted an order of possession.

This order must be served upon the tenant. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia 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: September 27, 2017

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Residential Tenancy Branch