



# 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      OPC MNR MNDC MNSD FF

### Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution, dated August 2, 2017 (the "Application"). The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order of possession for cause;
- a monetary order for unpaid rent or utilities;
- a monetary order for money owed or compensation for damage or loss;
- an order allowing the Landlord to retain all or part of the security deposit or pet damage deposit; and
- an order granting recovery of the filing fee.

The Landlord was represented at the hearing by K.O., an agent. A.G., the building manager, also attended the hearing but did not participate. The Tenant attended the hearing on his own behalf.

The Landlord testified the Application package was served on the Tenant by registered mail on August 9, 2017, and that the Tenant subsequently acknowledged receipt in conversations with agents of the Landlord. Pursuant to section 89 and 90 of the *Act*, documents served by registered mail are deemed to be received five days later. I find the Tenant is deemed to have received the Application package on August 14, 2017. The Tenant did not submit documentary evidence in response to the Landlord's Application.

The parties were provided with the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issues to be Decided

1. Is the Landlord entitled to an order of possession for cause?
2. Is the Landlord entitled to a monetary order for unpaid rent or utilities?
3. Is the Landlord entitled to a monetary order for money owed or compensation for damage or loss?
4. Is the Landlord entitled to retain all or part of the security deposit or pet damage deposit?
5. Is the Landlord entitled to an order granting recovery of the filing fee?

### Background and Evidence

On behalf of the Landlord, K.O. testified the tenancy began on June 1, 2012. Currently, rent in the amount of \$757.00 per month is due on the first day of each month. The Tenant paid a security deposit of \$340.00, which the Landlord holds.

On behalf of the Landlord, K.O. confirmed testified that a 1 Month Notice to End Tenancy for Cause (the "1 Month Notice"), was served on the Tenant, in person, on July 5, 2017. The effective date of the 1 Month Notice was August 31, 2017. In addition to submitting a copy of the 1 Month Notice, the Landlord also provided a Proof of Service document confirming service in the manner described. The Tenant did not dispute that the 1 Month Notice was served as claimed.

In addition, K.O. testified that rent has not been paid when due and that \$91.00 is currently outstanding. In reply, the Tenant did not dispute the amount owing but indicated he has a disability that makes it difficult to concentrate.

Finally, the Landlord sought to recover the \$100.00 filing fee paid to make the Application, and sought to apply the security deposit held in satisfaction of the claim.

### Analysis

Based on the unchallenged and affirmed oral testimony and documentary evidence, and on a balance of probabilities, I find:

Section 47 of the *Act* permits a landlord to end a tenancy in the circumstances described therein. Upon receipt of a notice to end tenancy for cause, a tenant who wishes to dispute the notice must do so by filing an application for dispute resolution within 10 days after receipt. Failure to do so results in the conclusive presumption the tenancy has accepted the end of the tenancy.

In this case, K.O. testified, and I find, that the 1 Month Notice was served on and received by the Tenant on July 5, 2017. Accordingly, the Tenant had until July 15, 2017, to dispute the 1 Month Notice by filing an application for dispute resolution. The Tenant did not. Accordingly, I find the Tenant is conclusively presumed to have accepted the tenancy ended on the effective date of the 1 Month Notice. As the effective date of the 1 Month Notice has passed, I find the Landlord is entitled to an order of possession, which will be effective two (2) days after service on the Tenant.

In addition, section 26 of the *Act* confirms that a tenant must pay rent when due under a tenancy agreement. In this case, I find that rent has not been paid when due and that \$91.00 remains outstanding. I find the Landlord is entitled to a monetary award in the amount of \$91.00 for unpaid rent.

Having been successful, the Landlord is also entitled to recover the filing fee paid to make the Application, and I order that the Landlord may apply the security deposit held in satisfaction of the claim. Accordingly, I find the Landlord is entitled to a total monetary award of \$191.00, which is comprised of \$91.00 in unpaid rent and \$100.00 in recovery of the filing fee. I order that \$191.00 may be deducted from the security deposit held, leaving \$149.00 ( $\$340.00 - \$191.00 = \$149.00$ ) to be dealt with in accordance with section 38 of the *Act*.

Conclusion

The Landlord is granted an order of possession, which will be effective two (2) days after service on the Tenant. The order of possession may be filed in 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: October 30, 2017

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Residential Tenancy Branch