



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Parkview Apartments Inc.  
and [tenant name suppressed to protect privacy]

## **DECISION**

### **Dispute Codes**

OPR; MNR; MNSD; FF

### **Introduction**

This is the Landlord's Application for Dispute Resolution seeking an Order of Possession; a monetary award for unpaid rent and loss of revenue; to apply the security deposit towards its monetary award; and to recover the cost of the filing fee from the Tenant.

This matter was scheduled to be heard by teleconference at 11:00 a.m., October 23, 2017. The Landlord's agent attended the conference and gave affirmed testimony. The Tenant did not attend the conference, which remained open for 15 minutes.

The Landlord's agent testified that he mailed the Notice of Hearing documents to the rental unit, by registered mail, on August 2, 2017. He testified that the documents were refused by the Tenant and returned to the Landlord. The Landlord provided a copy of the registered mail receipt and the Canada Post tracking information.

The tracking information indicates that a notice was left for the Tenant on August 3, 2017, showing where and when to pick up the registered documents. On August 10, 2017, a final notice was left for the Tenant, indicating that it would be returned to sender if not collected within 10 days. The documents were returned to the Landlord on August 25, 2017.

I find that the Tenant was duly served with the Notice of Hearing documents in accordance with the provisions of Section 89(1)(c) of the Act. Section 90(a) of the Act deems service in this manner to be effective 5 days after mailing the documents. The Hearing continued in the Tenant's absence.

**Issue(s) to be Decided**

Is the Landlord entitled to an Order of Possession and a monetary award for unpaid rent and loss of revenue?

**Background and Evidence**

The Landlord's agent gave the following undisputed testimony:

1. This tenancy began on August 12, 2016. Monthly rent is \$800.00, due on the first day of each month. The Tenant paid a security deposit in the amount of \$400.00 at the beginning of the tenancy, which the Landlord is holding pending outcome of this Hearing.
2. The Tenant did not pay rent when it was due on June 1, 2017 and July 1, 2017. On July 11, 2017, the Landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent and posted it to the Tenant's door.
3. The Tenant has not paid any of the outstanding rent and the Landlord is also seeking compensation for loss of revenue for the months of August, September and October, 2017. The Landlord's total monetary claim is \$3,600.00.
4. The Tenant remains in the rental unit.

**Analysis**

I accept the Landlord's agent's undisputed affirmed testimony in its entirety.

Section 46(5) of the Act provides:

- (5) If a tenant who has received a notice under this section does not pay the rent or make an application for dispute resolution in accordance with subsection (4), the tenant
  - (a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and
  - (b) must vacate the rental unit to which the notice relates by that date.

Pursuant to the provisions of Section 90(3) of the Act, I find that the Tenant was duly served with the Notice to End Tenancy on July 14, 2017. The Tenant did not pay the outstanding rent or make an application to dispute the Notice to End Tenancy within 5 days of receipt of the Notice. Pursuant to the provisions of Section 46(5)(a) of the Act, I find that the Tenant is conclusively presumed to have accepted that the tenancy ended

on July 24, 2017. The Tenant is overholding and therefore, I further find that the Landlord is entitled to a monetary award for unpaid rent and loss of revenue for the months of June, July, August, September, and October, 2017, in the amount of \$3,600.00.

Further to the provisions of Section 72 of the Act, I find that the Landlord is entitled to recover the cost of the filing fee from the Tenant and that the Landlord may apply the security deposit towards partial recovery of its monetary award.

I hereby provide the Landlord with a Monetary Order, calculated as follows:

Unpaid rent and loss of revenue	\$3,600.00
Recovery of filing fee	\$100.00
Less set-off of security deposit	<u>-\$400.00</u>
TOTAL	\$3,300.00

### **Conclusion**

The Landlord is hereby provided with an Order of Possession, **effective 2 days after service of this Order upon the Tenant**. This Order may be filed in the Supreme Court of British Columbia for enforcement.

The Landlord is hereby provided with a Monetary Order in the amount of **\$3,300.00** for service upon the Tenant. This Order may be filed in the Provincial Court of British Columbia (Small Claims Court) 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: October 23, 2017

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Residential Tenancy Branch