



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

### Dispute Codes OPC FF MNR

#### Introduction

This hearing dealt with the landlords' application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession for cause, pursuant to section 55;
- a monetary order for unpaid rent and utilities pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72 .

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to call witnesses, and to make submissions. The landlord's agent, SA, testified on behalf of the landlords in this hearing and was given full authority by the landlords to do so by the landlords.

The tenant confirmed receipt of the landlord's dispute resolution package, including the evidence package and amendment. In accordance with sections 88 and 89 of the *Act*, I find that the tenant was duly served with the amended application and evidence. The tenant did not submit written evidence for this hearing.

The tenant confirmed receipt of the landlords' 1 Month Notice to End Tenancy for Cause ('1 Month Notice') on July 2, 2017. Accordingly, I find the tenant duly served with the 1 Month Notice, pursuant to section 88 of the *Act*.

#### Issues to be Decided

Are the landlords entitled to an Order of Possession for cause?

Are the landlords entitled to a Monetary Order for unpaid rent?

Are the landlords entitled to recover the filing fee for this application?

#### Background and Evidence

Both parties confirmed in the hearing that this month to month tenancy began sometime in 1999. The current monthly rent is \$985.00, due on the first of each month. The tenant continues to reside in the rental unit. The tenant sublets a portion of the three bedroom apartment to his tenant(s), which was agreed to by the original landlord.

The landlord submitted the notice to end tenancy providing two grounds:

1. the tenant has allowed an unreasonable number of occupants in the unit/site; and
2. The tenant or a person permitted on the property by the tenant, has significantly interfered with or unreasonably disturbed another occupant or the landlord.

The tenant did not dispute the fact that one of his tenants, who he has sublet to, has physically assaulted another tenant, and has slept on another tenant's porch. The landlord is seeking an Order of Possession for November 30, 2017.

The landlord is also seeking a monetary order for unpaid rent in the amount of \$220.00, which the tenant did not dispute as the amount owing.

**Analysis**

**Section 26** of the Act, in part, states as follows:

***Rules about payment and non-payment of rent***

**26 (1)** *A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.*

**Section 52** of the Act provides the following requirements requiring the form and content of notices to end tenancy:

**52** *In order to be effective, a notice to end a tenancy must be in writing and must*

- (a) be signed and dated by the landlord or tenant giving the notice,*
- (b) give the address of the rental unit,*
- (c) state the effective date of the notice,*
- (d) except for a notice under section 45 (1) or (2) [tenant's notice], state the grounds for ending the tenancy, and*
- (e) when given by a landlord, be in the approved form...*

I find that the landlords' 1 Month Notice complies with section 52 of the Act. The tenant did not make an application pursuant to section 47(4) of the Act within ten days of receiving the 1 Month Notice. In accordance with section 47(5) of the Act, the failure of the tenant to take the above action within ten days led to the end of this tenancy on August 31, 2017, the corrected effective date on the 1 Month Notice. In this case, this required the tenant and anyone on the premises to vacate the premises by August 31, 2017. As this has not occurred, I find that the landlords are entitled to an Order of Possession for November 30, 2017, pursuant to section 55 of the Act.

The landlord's agent provided undisputed evidence that the tenant failed to pay the outstanding rent in the amount of \$220.00. Therefore, I find that the landlords are entitled to \$220.00 in outstanding rent for this tenancy.

As the landlords were successful in their application, I find that they are entitled to recover the filing fee for this application.

The offsetting provisions of section 72 of the Act allow the landlords to retain the tenant's security deposit in partial satisfaction of the monetary claim. It was not confirmed by either party during the hearing if the landlords still hold a security deposit for this tenancy. In accordance with the offsetting provisions of section 72 of the Act, I order the landlords to retain the tenant's security deposit, if the landlords do hold such a deposit, in partial satisfaction of the monetary claim.

**Conclusion**

I find that the landlords' 1 Month Notice is valid. I grant an Order of Possession to the landlords effective November 30, 2017. Should the tenant(s) or any other occupant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

The landlords' application to recover the \$220.00 in unpaid rent and \$100.00 filing fee for this application is granted. I order the landlords to retain the tenant's security deposit, if the landlords hold a deposit, in partial satisfaction of the monetary claim. In the event that the landlords do not hold a security deposit, the landlords are provided with a Monetary Order in the amount of \$320.00, and the tenant must be served with **this Order** as soon as possible. Should the tenant(s) fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

**This Decision is final and binding on both parties.**

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: November 24, 2017

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Residential Tenancy Branch