



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: OPC CNR MNDC MNSD FF

### **Introduction:**

Both parties made Applications but only the landlord attended and gave sworn evidence. He said he personally served the One Month Notice to end Tenancy for cause dated August 4, 2017 to be effective September 30, 2017 and the Application for Dispute Resolution. I find that the tenant was legally served with the documents according to sections 88 and 89 of the Act. The landlord said the tenant never served him with his Application to cancel the 10 Day Notice to End Tenancy. The landlord applies pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) An Order of Possession pursuant to Sections 47, and 55 for cause;
- b) A Monetary Order for unpaid rent and utilities pursuant to sections 46 and 67; and
- c) An order to recover the filing fee pursuant to Section 72.

The tenant applies pursuant to the Act for orders as follows:

- d) To cancel a 10 Day Notice to End Tenancy for unpaid rent.

### **Issue(s) to be Decided:**

The landlord said the tenant vacated on October 5, 2017 so he no longer requires an Order of Possession. The remaining issue is whether the tenant owes rent and in what amount? Also are they entitled to recover the filing fee?

Or is the tenant entitled to any relief and to recover the filing fee?

### **Background and Evidence:**

Only the landlord attended and was given opportunity to be heard, to present evidence and to make submissions. The undisputed evidence is that the tenancy commenced July 1, 2017 on a fixed term lease expiring June 30, 2018, a security deposit of \$600 was paid and rent is \$1200 a month.

The landlord claims \$1200 for unpaid rent in September and \$1200 for October 2017. He re-rented the unit for November 1, 2017. In his Application, the tenant said he was disputing the 10 Day Notice to end tenancy for unpaid rent but he did not submit any documents to support his Application and did not attend the hearing to give sworn evidence.

On the basis of the solemnly sworn evidence presented at the hearing, a decision has been reached.

**Analysis:**

Order of Possession

The landlord no longer requires an Order of Possession.

Monetary Order

I find that there are rental arrears in the amount of \$2400 for September and October 2017. I find this was a fixed term lease and the tenant is responsible for any losses in rental income due to his breaches of the agreement during the fixed term. I find also that section 26 of the Act requires a tenant to pay rent when it is due. I find the weight of the evidence is that the tenant did not pay rent for September or October 2017 and the landlord was able to mitigate rental loss by re-renting November 1, 2017. I find the landlord entitled to a monetary order for \$2400 plus filing fee.

I find the tenant did not serve the landlord with his application and provided no information to support it. I dismiss the application.

**Conclusion:**

I find the landlord entitled to a monetary order as calculated below. I find the landlord is entitled to retain the security deposit to offset the rental amount owing and to recover filing fees paid for this application.

I dismiss the application of the tenant in its entirety without leave to reapply.

Calculation of Monetary Award:

Rental arrears	2400.00
Filing fee	100.00
Less security deposit	-600.00
<b>Total Monetary Order to Landlord</b>	<b>1900.00</b>

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 07, 2017

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Residential Tenancy Branch