



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes**

Landlord IG's Application made October 2, 2017, and amended October 25, 2017:  
MNR; MNDC; OPB; OPC; OPR; FF

Tenants' Application made October 3, 2017: CNR; LRE

### **Introduction**

This Hearing was scheduled to consider cross Applications for Dispute Resolution. The Landlord IG's Application is for an Order of Possession; a monetary award for unpaid rent and damages to the rental unit; and to recover the cost of the filing fee from both of the Tenants. The Landlord had transposed the Tenant SM's first and last names on his Application for Dispute Resolution. I amended his Application to reflect the correct order of SM's name.

The Tenants' Application is for an Order restricting the Landlords IG's and HG's right to access the rental unit and to cancel a Notice to End Tenancy for Unpaid Rent.

The Hearing was scheduled to be conducted by teleconference at 10:30, December 14, 2017. The telephone system was open and monitored for the duration of the Hearing, which lasted 30 minutes, but neither of the Tenants signed into the Hearing.

The Landlord IG gave affirmed testimony at the Hearing. IG testified that the Tenants vacated the rental unit on December 4, 2017 at midnight and that the Landlords have taken back possession of the rental unit. Therefore, the Landlord no longer requires an Order of Possession.

IG testified that neither of the Landlords was served with the Tenants' Application and Notice of Hearing.

IG testified that he posted the Notice of Hearing documents to the Tenants' door on October 6, 2017, because the Tenants would not open the door and insisted he post the documents instead. The Landlord IG provided a copy of text messages between the parties in support of his testimony. The Landlord IG stated that the Landlord HG also

hand delivered a copy of the Notice of Hearing documents to the Tenant MS on October 11, 2017, at the rental unit. The Landlord IG stated that the Landlord also served the Tenants with copies of his documentary evidence, including his amended Application, by posting the documents to the Tenants' door.

Section 89(1) of the Act does not provide for service of documents by posting them on the Tenants' door, when seeking a monetary award; however, Section 71 of the Act provides:

**Director's orders: delivery and service of documents**

- 71** (1) The director may order that a notice, order, process or other document may be served by substituted service in accordance with the order.
- (2) In addition to the authority under subsection (1), the director may make any of the following orders:
- (a) that a document must be served in a manner the director considers necessary, despite sections 88 *[how to give or serve documents generally]* and 89 *[special rules for certain documents]*;
  - (b) that a document has been sufficiently served for the purposes of this Act on a date the director specifies;
  - (c) that a document not served in accordance with section 88 or 89 is sufficiently given or served for purposes of this Act.

Based on the Landlord IG's undisputed affirmed testimony, I find that both of the Tenants were sufficiently served with the Notice of Hearing documents pursuant to the provisions of Section 71(2)(c) of the Act.

The Hearing continued with respect to the Landlord IG's Application in the absence of the Tenants. As the Tenants did not attend the Hearing, their Application is dismissed.

**Issue(s) to be Decided**

Is the Landlord entitled to a monetary award for unpaid rent and damages to the rental unit?

## **Background and Evidence**

This tenancy began on August 1, 2017. Monthly rent was \$900.00, due on the first day of each month. The Tenants paid a security deposit in the amount of \$400.00.

The Landlord GI gave the following undisputed testimony:

The Tenants did not pay rent when it was due on September 1, 2017. On October 1, 2017, the Landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent and posted it to the Tenants' door on the same day.

The Tenants did not pay any rent for September, October, November or December, 2017. The Landlord inspected the rental unit in October, 2017, and found that the Tenants had caused damage to the rental unit, including:

Provide clear details of the damage. Use a separate sheet if needed. See important information.

Tenant damaged the unit. Damaged walls 1-25"x30" 2-8"x12" 3-8"x12" 4-3"x4" 5-4"x4"  
Cupboards: 1 - Kitchen Cupboard 2 - Kitchen drawer 3 - Washroom Closet  
Door: Door between the kitchen and bedroom damaged, need replacement.  
Fire Sensors: Removed, seriously jeopardizing safety of all for smoking inside. Landlord allergic to smoke. Doctors note attached.  
Foodwaste collected inside, serious health risk and pests. insects crawling upstare through broken drywall. (Pictures attached)

SIGNATURE

[copy of details taken from Landlord's damage claim]

The Landlord testified that the Tenants told him that they had found a new place to live, but they needed money for the security deposit. They asked him for \$300.00 from their security deposit, which he gave to them. Therefore, the Landlord has only \$100.00 of the original \$400.00 deposit.

The Landlord provided photographs and estimates/invoices for the cost of repairing the damage.

## **Analysis**

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

I find that the tenancy ended on October 14, 2017, 10 days after the Tenants were deemed to be served with the Notice pursuant to the provisions of Section 90 of the Act. I find that the Landlord has established a monetary award for unpaid rent, loss of revenue and damages. The Landlord may set off the residue of the security deposit against his monetary award.

The Landlord's Application had merit and I find that he is entitled to recover the cost of the filing fee from the Tenants.

The Landlord IG is hereby provided with a Monetary Order, calculated as follows:

Unpaid rent for September and October, 2017	\$1,800.00
Loss of revenue for November and December, 2017	\$1,800.00
Cost to replace door	\$92.30
Cost to replace closet door	\$93.56
Cost to repair drywall	\$1,050.00
Cost to paint the rental unit after repairing drywall	\$840.00
Recovery of filing fee	\$100.00
Set of residue of security deposit	<u>\$100.00</u>
TOTAL	\$5,675.86

### **Conclusion**

The Tenants' Application is dismissed without leave to reapply.

I hereby provide the Landlord with a Monetary Order in the amount of **\$5,675.86** for service upon the Tenants. This Order is enforceable in the Provincial Court of British Columbia (Small Claims).

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: December 15, 2017

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Residential Tenancy Branch