



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNRL, FFL

### Introduction

This decision pertains to the Landlord's application for dispute resolution made on April 10, 2018, under the *Residential Tenancy Act* (the "Act"). The Landlord seeks the following relief:

1. an order of possession for unpaid rent;
2. a monetary order for money owed or compensation for damage or loss; and,
3. a monetary order granting recovery of the filing fee.

The Landlord and the Tenant (J.G.) attended the hearing before me and were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses. The Landlord's spouse attended, but did not provide evidence. The Landlord's interpreter attended, and provided occasional translation assistance.

The Landlord provided documentary evidence that the Notice of Hearing package was served on the Tenants on April 10, 2018, by way of registered mail. The Tenant confirmed that they had received the package "a couple of weeks ago" and that they had time to review the material. I am satisfied that the Tenants have been served pursuant to section 89 of the Act.

While I have reviewed all oral and documentary evidence submitted, only relevant evidence pertaining to the issues of this application are considered in my decision.

### Issues to be Decided

1. Is the Landlord entitled to an order of possession for unpaid rent?
2. Is the Landlord entitled to a monetary order for money owed or compensation for damage or loss?
3. Is the Landlord entitled to a monetary order granting recovery of the filing fee?

### Background and Evidence

The parties signed a written tenancy agreement (the "Agreement") for a fixed term tenancy commencing on January 19, 2018, and ending on January 18, 2019. Rent is \$2,800.00, due on the nineteenth day of each month. The Tenants paid a security deposit of \$1,400.00. A copy of the Agreement was submitted into evidence by the Landlord, and the Tenant agreed with the terms and amounts.

The Landlord testified that their claim is for unpaid rent for February 2018, March 2018, and April 2018. The total amount of unpaid rent is \$8,400.00. On March 16, 2018, the Landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice"), with an effective date of March 26, 2018. The Landlord served the Notice in person on the Tenants on March 16, 2018.

The Tenant testified that they, and other occupants, have been busy cleaning up the property to put it back to a condition where the Landlord can rent it out again. The Tenant further testified that they and their family have found a new place to live, and that they plan on moving into that place for June 1, 2018. The Tenant testified and acknowledged that they have not paid rent for February, March and April 2018.

### Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

### ***Claim for Unpaid Rent***

Section 26 of the Act requires that a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with the Act, the regulations or the tenancy agreement, unless the tenant has a right under the Act to deduct all or a

portion of the rent. Pursuant to section 46 of the Act, the Notice informed the Tenants that the Notice would be cancelled if the rent was paid within five days of service. The Notice also explains that the Tenants had five days from the date of service to dispute the Notice by filing an Application for Dispute Resolution.

Taking into consideration all the evidence, unchallenged testimony, and the testimony of the Tenant presented before me, and applying the law to the facts, I find on a balance of probabilities that the Landlord has met the onus of proving their claim regarding unpaid rent for February 2018, March 2018, and April 2018.

For the reasons set out above, I find that the Landlord is entitled to a monetary claim for unpaid rent in the amount of \$8,400.00. Further, I order that the security deposit held be applied to the award granted to the Landlord, pursuant to section 72 of the Act.

I find that the Landlord is entitled to recover the \$100.00 filing fee.

A total monetary award of \$8,500.00 for the Landlord is calculated as follows:

CLAIM	AMOUNT
Unpaid rent	\$8,400.00
Filing fee	\$100.00
LESS security deposit	(\$1,400.00)
Total:	\$7,100.00

### ***Order of Possession***

Section 55 (1) (b) of the Act states that a landlord may request an order of possession of a rental unit when a notice to end the tenancy has been given by the landlord, and the tenant has not disputed the notice by making an application for dispute resolution and the time for making that application has expired.

Applying section 55 of the Act to the unchallenged testimony regarding the Tenants' failure to pay rent for February 2018, March 2018, and April 2018, and regarding the Tenants' failure to apply for dispute resolution, pursuant to sections 46 and 55 of the Act, I hereby grant an order of possession to the Landlord. This order is effective two days after service upon the Tenants.

Conclusion

The Landlord is granted an order of possession for unpaid rent. This order must be served on the Tenants and is effective two days after service on the Tenant. This order may be filed in and enforced as an order of the Supreme Court of British Columbia.

The Landlord is granted a monetary order in the amount of \$7,100.00. This order must be served on the Tenants and may be filed in and enforced as an order of 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: May 9, 2018

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Residential Tenancy Branch