



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: OPC MNRL FFL

Both parties made applications but only the landlord attended the hearing and gave affirmed testimony. The tenant did not attend this hearing, although I left the teleconference hearing connection open for 20 minutes in order to enable the tenant to call into this teleconference hearing scheduled for May 17, 2018 at 10:30 a.m. The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

The landlord said they served on February 14, 2018 the One Month Notice to end Tenancy for cause dated February 14, 2018 to be effective March 31, 2018 by posting it on the door. They said they served the Application for Dispute Resolution by registered mail and according to the postal tracking system, the tenant picked it up. I find that the tenant was legally served with the documents according to sections 88 and 89 of the Act. 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 fines; and
- c) An order to recover the filing fee pursuant to Section 72.

The tenant applies to cancel the Notice to End Tenancy and to order the landlord not to enter her unit without permission.

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

Is the landlord entitled to an Order of Possession, a monetary order for rental arrears and fines and to recover the filing fee?

Or is the tenant entitled to any relief?

**Background and Evidence:**

The undisputed evidence is that the tenant commenced living in the premises with her husband in April 2017, a security deposit of \$800 was paid and rent is currently \$1600 a month. The husband left and a new tenancy agreement was made with the female tenant commencing on July 1, 2017 and expiring July 1, 2018. The landlord provided evidence that the tenant had paid no rent since the Notice was served so owes rent for March, April and May 2018 (\$1600x3=\$4800) plus has accumulated unpaid strata fines of \$500. He seeks a monetary order for \$5300 plus filing fee.

The landlord testified they served the Notice to End Tenancy pursuant to section 47 of the Act for the following reasons:

1. The tenant or a person permitted on the property by the tenant has
  - (a) Significantly interfered with or unreasonably disturbed another occupant or the landlord.

Enclosed as evidence are many letters from the strata noting the problems caused by the tenant. They include excessive noise, marijuana smoking, inadequate vehicle insurance, and three more excessive noise complaints in November, December 2017 and January 2018. Fines were imposed by the strata for these violations.

The tenant in her documentary evidence states she is not responsible for the fines as they did not pertain to her unit. She also requests the landlord not to enter her unit and disturb her peaceful enjoyment.

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

**Analysis**

**Order of Possession**

I find that the landlord is entitled to an Order of Possession. I find the weight of the evidence is that the tenant has caused significant interference and unreasonable disturbance to other residents of the property. I find also that the tenant has not paid rent for March, April or May 2018. Although the Tenant made application pursuant to Section 47 to set aside the Notice to End a Residential Tenancy and to set aside the 10 Day Notice to End Tenancy, she did not attend the hearing to support her application. I find the weight of the evidence is that she did not pay the rent as described and has caused significant interference and unreasonable disturbance to other occupants of the

property. I dismiss the tenant's application and uphold the Notices to End Tenancy.. An Order of Possession is issued effective two days from service.

#### Monetary Order

I find that there are rental arrears in the amount of \$5300 representing rental arrears from March to May 2018. I find the tenant also owes \$500 in unpaid strata fines for their behaviour. Although the tenant contended in her documentary evidence that she did not owe these fines, I find the weight of the evidence from the strata documents is that her behaviour or the behaviour of those permitted on the property by her violated the Bylaws and Rules of the strata so I find she is responsible for those fines.

Regarding her contention of the landlord's unauthorized entry, I find insufficient evidence to support her contention. I dismiss her application.

#### **Conclusion:**

I dismiss the tenant's application in its entirety. I find the landlord is entitled to an Order of Possession effective two days from service and 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.

#### Calculation of Monetary Award:

Rent arrears March to May 2018 (3x1600)	4800.00
Unpaid strata fines	500.00
Filing fee	100.00
Less security deposit (no interest 2009-18)	-800.00
<b>Total Monetary Order to Landlord</b>	<b>4600.00</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: May 17, 2018

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Residential Tenancy Branch