



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

### Dispute Codes:

MNRL-S, FFL, OLC

### Introduction

This hearing was convened in response to cross applications.

The Landlord filed an Application for Dispute Resolution in which the Landlord applied for a monetary Order for unpaid rent, to retain all or part of the security deposit/pet damage deposit, and to recover the fee for filing this Application for Dispute Resolution.

The Landlord stated that on April 23, 2018 the Landlord's Application for Dispute Resolution and the Notice of Hearing were sent to the Tenant, via registered mail. The Tenant acknowledged receipt of these documents and I therefore find that they were served to her in accordance with section 89 of the *Residential Tenancy Act (Act)*.

The Tenant filed an Application for Dispute Resolution in which the Tenant applied for an Order requiring the Landlord to comply with the *Residential Tenancy Act (Act)*, the *Residential Tenancy Regulation*, or the tenancy agreement.

The Tenant stated that on March 21, 2018 the Tenant's Application for Dispute Resolution and the Notice of Hearing were sent to the Landlord, via registered mail. The Landlord acknowledged receipt of these documents and I therefore find that they were served to him in accordance with section 89 of the *Act*.

On March 20, 2018 the Tenant submitted 4 pages of evidence to the Residential Tenancy Branch. The Tenant stated that this evidence was served to the Landlord, via registered mail, on March 23, 2018. The Landlord acknowledged receiving this evidence and it was accepted as evidence for these proceedings.

On April 17 2018 the Landlord submitted a Proof of Service to the Residential Tenancy Branch. The Agent for the Landlord stated that he cannot recall how this evidence was served to the Tenant. The Tenant stated that she found this evidence posted on her door sometime in April of 2018. As the Tenant acknowledged receiving this evidence, it was accepted as evidence for these proceedings.

On April 16, 2018 the Landlord submitted 10 pages of evidence to the Residential Tenancy Branch. The Agent for the Landlord stated that he cannot recall how this evidence was served to the Tenant. The Tenant stated that this evidence was served to the Tenant with the Application for Dispute Resolution. The Tenant stated that these documents were not served to her with the Application for Dispute Resolution.

The parties were advised that the hearing would proceed and that the Landlord could refer to the evidence he submitted to the Residential Tenancy Branch on April 16, 2018 but that they could not be accepted as evidence for this hearing. The Landlord was advised that he could request an adjournment of the proceedings for the purpose of re-serving this evidence to the Tenant if, at the end of the hearing, the Landlord considered it necessary for me to view his evidence. Prior to the conclusion of the hearing the Landlord did not wish an adjournment for the purposes of re-serving his evidence.

The parties were given the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions. The parties were advised of their legal obligation to speak the truth during these proceedings.

All of the documents accepted as evidence has been reviewed, but is only referenced in this written decision if it is relevant to my decision.

#### Issue(s) to be Decided

Is the Landlord entitled to a monetary Order for unpaid rent?

Is the Landlord entitled to retain the Tenant's security deposit/pet damage deposit?

Should the Landlord be required to serve the Tenant with a Two Month Notice to End Tenancy?

#### Background and Evidence

The Landlord and the Tenant agree that the tenancy began in 2017; the Tenant's former boyfriend moved into the rental unit prior to the Tenant moving into the unit; a security deposit of \$700.00 was paid; and a pet damage deposit of \$100.00 was paid.

The Landlord stated that the Tenant is named on a tenancy agreement that was signed on December 29, 2017, which required the Tenant to pay monthly rent of \$1,400.00 by the first day of each month. The Tenant stated that she never signed a tenancy agreement and that any tenancy agreement with the Landlord would name her former boyfriend.

The Tenant stated her former boyfriend moved out of the rental unit in January of 2018 and she remained living in the rental unit. She stated that on December 29, 2017 she entered into a verbal tenancy agreement with the Landlord, at which time she agreed to pay monthly rent of \$1,400.00 by the first day of each month.

The Landlord and the Tenant agree that the Landlord gave the Tenant notice to end the tenancy on December 29, 2017. This was a notice that was created by the Landlord, which declared that the rental unit must be vacated by April 30, 2018. This notice does not explain why the Landlord is ending the tenancy.

The Landlord stated that on December 29, 2017 the Tenant and the Landlord signed a Mutual Agreement to End Tenancy, in which the parties agreed that the tenancy would end on April 30, 2018. The Tenant denies signing, or receiving, this Mutual Agreement to End Tenancy.

The Landlord stated that on April 19, 2018 the Landlord served the Tenant with a One Month Notice to End Tenancy, which was posted on her door. He stated that this Notice served to end the tenancy on May 31, 2018. The Tenant stated that she did not receive this Notice to End Tenancy.

The Landlord stated that on April 03, 2018 the Landlord served the Tenant with a Ten Day Notice to End Tenancy, which was posted on her door. He stated that this Notice served to end the tenancy on April 18, 2018. The Tenant stated that she received this Notice to End Tenancy and she did not file an Application for Dispute Resolution for the purpose of disputing the Notice.

The Landlord stated that the on April 30, 2018 he determined that the rental unit had been vacated. The Tenant stated that she vacated the rental unit on April 29, 2018.

The Landlord is seeking compensation of \$1,400.00 for unpaid rent from April of 2018. The Tenant agreed that she did not pay any rent for April of 2018.

The Tenant stated that she is asking for an Order requiring the Landlord to serve her with a Two Month Notice to End Tenancy for Landlord's Use of Property.

### Analysis

Regardless of whether it was a verbal agreement, as the Tenant contends, or a written agreement, as the Landlord contends, I find that on December 29, 2017 the Tenant entered into a tenancy agreement with the Landlord that required the Tenant to pay monthly rent of \$1,400.00 by the first day of each month.

Regardless of how this tenancy ended, I find that the Tenant remained in the rental unit until April 29, 2018.

As there is no evidence that the tenancy had ended prior to April 01, 2018 and the Tenant was occupying the rental unit on April 01, 2018, I find that the Tenant was required to pay rent of \$1,400.00 on April 01, 2018. I therefore grant the Landlord's application for a monetary Order of \$1,400.00.

I find that the Landlord's application has merit and that the Landlord is entitled to recover the cost of filing this Application for Dispute Resolution.

There is nothing in the Act that authorizes me to Order a Landlord to serve a Tenant with a Two Month Notice to End Tenancy for Landlord's Use of Property. I therefore dismiss the Tenant application for an Order requiring the Landlord to serve her with a Two Month Notice to End Tenancy for Landlord's Use of Property.

### Conclusion

The Landlord has established a monetary claim, in the amount of \$1,500.00, which includes \$1,400.00 in unpaid rent and \$100.00 in compensation for the fee paid to file this Application for Dispute Resolution. Pursuant to section 72(2) of the *Act*, I authorize the Landlord to keep the Tenant's security deposit/pet damage of \$800.00, in partial satisfaction of the monetary claim.

Based on these determinations I grant the Landlord a monetary Order for the balance of \$700.00. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: June 05, 2018

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Residential Tenancy Branch