



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNR, FFT, OLC, PSF, RP  
FFL, MNRL-S-OPR

The Application for Dispute Resolution filed by the Tenant makes the following claims:

- a. An order to cancel the 10 day Notice to End Tenancy dated May 9, 2018
- b. An order that the landlord comply with the Act, regulation and/or the tenancy agreement
- c. An order that the landlord provide services or facilities required by the tenancy agreement or law.
- d. A repair order
- e. An order that the tenant recover the cost of the filing fee

The Application for Dispute Resolution filed by the landlord makes the following claims:

- a. An Order for Possession for non-payment of rent
- b. A monetary order in the sum of \$4065 for unpaid rent
- c. An order to retain the security deposit
- d. An order to recover the cost of the filing fee

The tenant(s) failed to appear at the scheduled start of the hearing which was 10:30 a.m. on July 13, 2018. A representative of the landlord was present and ready to proceed. I left the teleconference hearing connection open and did not start the hearing until 10 minutes after the schedule start time in order to enable the tenant to call in. The tenants failed to appear. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I then proceeded with the hearing. The representative of the landlord was given a full opportunity to present affirmed testimony, to make submissions and to call witnesses.

On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

The landlord applied to amend his application to include a claim for the rent for July. Rule 4.2 of the Rules of Procedure provides as follows:

### 4.2 Amending an application at the hearing

In circumstances that can reasonably be anticipated, such as when the amount of rent owing has increased since the time the Application for Dispute Resolution was made, the application may be amended at the hearing.

If an amendment to an application is sought at a hearing, an Amendment to an Application for Dispute Resolution need not be submitted or served.

I ordered that the landlord's Application for Dispute Resolution be amended to include a claim for the rent for July 2018.

I find that the 10 day Notice to End Tenancy was sufficiently served on the Tenant by posting on May 9, 2018. Further I find that the Application for Dispute Resolution and Notice of Dispute Resolution Hearing filed by the landlord was sufficiently served on the Tenant by mailing, by registered mail to where the Tenant resides on June 8, 2018. In addition the landlord posted the documents on the front door of the rental unit. With respect to each of the applicant's claims I find as follows:

Issue(s) to be Decided:

The issues to be decided are as follows:

- a. Whether the tenant is entitled to an order cancelling the 10 day Notice to End Tenancy dated May 9, 2018?
- b. Whether the tenant is entitled to an order that the landlord comply with the Act, regulation and/or the tenancy agreement?
- c. Whether the Tenant is entitled to an order that the landlord provide services or facilities required by the tenancy agreement or law?
- d. Whether the Tenant is entitled to a repair order?
- e. Whether the tenant is entitled to recover the cost of the filing fee?
- f. Whether the landlord is entitled to an Order for Possession?
- g. Whether the landlord is entitled to A Monetary Order and if so how much?
- h. Whether the landlord is entitled to retain all or a portion of the security deposit/pet deposit?
- i. Whether the landlord is entitled to recover the cost of the filing fee?

Background and Evidence:

The parties entered into a written tenancy agreement that provided that the tenancy would start on April 1, 2017. The rent is \$2150 per month payable on the first day of each month. The tenant paid a security deposit of \$1037.50 at the start of the tenancy. The tenant(s) failed to pay the rent for the months of May 2018 (\$2095 is owed after

deducting a credit of \$55 from April), June 2018 (\$2150 is owed) and July (\$2150 is owed). The tenant(s) continues to reside in the rental unit.

Tenant's Application:

The Tenant failed to attend the hearing. Rule 7.3 provides as follows:

“7.3 Consequences of not attending the hearing

If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply. The tenant failed to attend the hearing. As a result I ordered that the Tenant's application be dismissed without leave to re-apply.”

I ordered that the application of the Tenant including the application to cancel the 10 day Notice to End Tenancy be dismissed without leave to re-apply.

Order for Possession:

The Residential Tenancy Act provides that where an arbitrator has dismissed a tenant's application to cancel a Notice to End Tenancy, the arbitrator must grant an Order for Possession. The landlord used the approved government form. There is outstanding rent. As a result I granted the landlord an Order for Possession on 2 days notice.

The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court of British Columbia for enforcement.

Landlord's Application - Order of Possession:

For the reasons set out above I granted an Order of Possession on 2 days notice.

Analysis - Monetary Order and Cost of Filing fee:

I determined the tenant has failed to pay the rent for the month(s) of May 2018 (\$2095 is owed after deducting a credit of \$55 from April), June 2018 (\$2150 is owed) and July (\$2150 is owed). In addition I determined the landlord is entitled to a \$25 late fee for each of May and June as provided in the tenancy agreement for a total of \$50. I dismissed the claim for a \$30 NSF as the amount is not permitted by the Regulations.

I ordered that the Tenant pay to the Landlord the sum of \$6445 plus the sum of \$100 for the cost of the filing fee for a total of \$6545.

Security Deposit:

I determined the security deposit plus interest totals the sum of \$1037.50. I ordered the landlord may retain this sum thus reducing the amount outstanding under this monetary order to the sum of \$5507.50.

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial Court and enforced as an Order of that Court.

Conclusion:

I dismissed the Tenant's application without leave to re-apply and I granted an Order of Possession on 2 days notice. I determined the Tenant owes the landlord the sum of \$6545 including the \$100 filing fee. I ordered the landlord shall retain the security deposit of \$1037.50. In addition I ordered the Tenant pay to the landlord the sum of \$5505.50.

**This decision is final and binding on the parties.**

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: July 13, 2018

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Residential Tenancy Branch