



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute codes      OPL MNR

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- an order of possession for landlord's use of property pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67.

The hearing was conducted by conference call. All named parties attended the hearing and were given a full opportunity to provide testimony, to present evidence and to make submissions. No issues were raised with respect to the service of the landlord's application for dispute resolution including all evidence before me.

### Preliminary Issue – Naming of Respondents

D.F. and her representative attended the hearing. D.F. advised that she was a co-tenant on the original tenancy agreement but that she vacated the rental unit in the beginning of June 2018. D.F. was not named as a respondent in the landlord's application nor did the landlord file an amended application to include her as a respondent.

D.F. and her representative were excluded from this hearing and the parties were advised that any orders issued would name the respondent C.S. only.

### Issues

Is the landlord entitled to an order of possession for landlord's use of property (the "2 Month Notice")?

Is the landlord entitled to a monetary order for unpaid rent?

### Background and Evidence

The tenancy began on June 1, 2015 with a current monthly rent of \$2395.00 payable on the 1<sup>st</sup> day of each month.

The landlord testified that on March 25, 2018 the tenant was personally served with the 2 Month Notice. A Proof of Service form of the 2 Month Notice was provided on file. The effective date of the 2 Month Notice was May 31, 2018. The tenant has not vacated the rental unit.

The tenant acknowledged receipt of the 2 Month Notice.

The landlord's monetary claim is for outstanding rent in the amount of \$1192.00. The landlord testified that on July 20, 2018 the tenant paid \$1208.00 towards use and occupancy for the month of July 2018. The landlord is claiming the balance of July 2018 rent in the amount of \$1187.00 plus \$5.00 outstanding from June 2018.

The tenant agreed to the amount of outstanding rent as claimed by the landlord.

### Analysis

I am satisfied that the tenant was served with the 2 Month Notice on March 25, 2018 pursuant to section 88 of the Act. I find the 2 Month Notice complies with the form and content requirements of section 52 of the Act.

Pursuant to section 49 of the *Act*, the tenant may make a dispute application within fifteen days of receiving the 2 Month Notice. If, as in the present case, the tenant does not make an application for dispute within fifteen days, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice, May 31, 2018.

Therefore, I find that the landlord is entitled to an Order of Possession pursuant to section 55 of the Act. As the landlord has collected a partial payment for use and occupancy for July 2018 and claimed for the remainder of the month in this hearing, I grant the order of possession effective July 31, 2018.

I accept the landlord's claim for outstanding use and occupancy rent of \$1192.00 and grant the landlord a monetary order for this amount.

Conclusion

I grant an Order of Possession to the landlord effective **July 31, 2018**. Should the tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

Pursuant to section 67 of the *Act*, I grant the landlord a Monetary Order in the amount of \$1192.00. Should the tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial 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 *Residential Tenancy Act*.

Dated: July 24, 2018

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Residential Tenancy Branch