



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      Landlord - OPR, MNRL-S, FFL  
Tenant – CNR, MT, LRE, OLC

### Introduction

This hearing dealt with an application by both parties pursuant to the *Residential Tenancy Act* (“*Act*”).

The landlord sought:

- an Order of Possession for unpaid rent pursuant to sections 46 and 55;
- a Monetary Order for unpaid rent and for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenants’ security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant sought:

- cancellation of the landlord’s 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46;
- an order requiring the landlords to comply with the *Act*, regulation or tenancy agreement pursuant to section 62;
- more time to make an application to cancel a notice to end tenancy pursuant to section 66; and
- an order to suspend or set conditions on the landlord’s right to enter the rental unit pursuant to section 70.

The tenant did not attend this hearing, although I waited until 11:14 a.m. in order to enable the tenants to connect with this teleconference hearing scheduled for 11:00 a.m.

Landlord A.S. (the landlord) attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

Rules 7.1 and 7.3 of the Rules of Procedure provides as follows:

**Commencement of the hearing** - The hearing must commence at the scheduled time unless otherwise decided by the arbitrator. The arbitrator may conduct the hearing in the absence of a party and may make a decision or dismiss the application, with or without leave to re-apply.

The landlord testified and provided written evidence that the Landlord's Application for Dispute Resolution (the Landlord's Application), the Amendment to an Application for Dispute Resolution (the Amendment) and evidentiary package were personally served the tenant on September 17, 2018. In accordance with sections 88 and 89 of the *Act*, I find that the tenant was duly served with the Landlord's Application, the Amendment and evidentiary package on September 17, 2018.

The landlord gave undisputed affirmed testimony that they did not receive the Tenant's Application for Dispute Resolution (the Tenant's Application) or any evidence from the tenant.

The landlord gave undisputed affirmed testimony and provided written evidence that the 10 Day Notice was personally served to the tenant on August 08, 2018. In accordance with section 88 of the *Act* I find that the 10 Day Notice was duly served to the tenant on August 08, 2018.

Issue(s) to be Decided

Should the 10 Day Notice be cancelled? If not, is the landlord entitled to an Order of Possession for unpaid rent?

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

Is the landlord entitled to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary award requested?

Is the landlord entitled to recover the filing fee for this application from the tenant?

Is the tenant entitled to any of the other remedies they are seeking under the *Act*?

### Background and Evidence

The landlord gave written evidence that this tenancy began on June 01, 2018, with a monthly rent of \$1,200.00, due on the first day of the month. The landlord testified that they continue to retain a \$600.00 security deposit.

A copy of the signed 10 Day Notice dated August 08, 2018, identifying \$1,200.00 in rent owing for this tenancy, with an effective date of August 18, 2018, was included in the landlord's evidence.

A copy of a Monetary Order Worksheet showing the rent owing and paid during this tenancy was also included in the landlord's evidence.

The Landlord's Application for a monetary award of \$4,200.00 is for \$600.00 in unpaid rent owing for July 2018 as well as \$1,200.00 in unpaid rent owing for August 2018, September 2018 and October 2018.

### Analysis

**In the absence of any evidence or submissions from the tenant, I order the Tenant's Application dismissed, without liberty to reapply.**

Section 55(1) of the *Residential Tenancy Act* provides that if a tenant makes an application to set aside a landlord's notice to end a tenancy and the application is dismissed, the Arbitrator must grant the landlord an order of possession if the notice complies with section 52 of the *Act*. I find that the 10 day Notice is in compliance with section 52 of the *Act*. Based on my decision to dismiss the Tenant's Application, and in accordance with section 55(1) of the *Act*, I find that the landlord is entitled to a two (2) day Order of Possession.

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party.

Based on the written evidence and undisputed affirmed testimony, I find that the landlord is entitled to a monetary award of \$4,200.00 for unpaid rent owing from July 2018 to October 2018.

Pursuant to section 72 of the *Act*, I allow the landlord to retain the tenant's security deposit plus applicable interest in partial satisfaction of the monetary award. No interest is payable over this period.

As the landlord has been successful in this application, I allow them to recover the filing fee from the tenant.

### Conclusion

I grant an Order of Possession to the landlords effective **two days after service of this Order** on the tenant(s). Should the tenant(s) or any occupant on the premises 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 a monetary Order in the landlord's favour under the following terms, which allows the landlord to recover unpaid rent, to retain the tenants' security deposit and to recover the filing fee:

Item	Amount
Unpaid July 2018 Rent	\$600.00
Unpaid August 2018 Rent	1,200.00
Unpaid September 2018 Rent	1,200.00
Unpaid October 2018 Rent	1,200.00
Less Security Deposit	-600.00
Filing Fee for this application	100.00
<b>Total Monetary Order</b>	<b>\$3,700.00</b>

The landlords re provided with this Order in the above terms and the tenant(s) must be served with this Order as soon as possible. Should the tenant(s) fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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: October 04, 2018

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Residential Tenancy Branch