



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding RANCHO MANAGEMENT SERVICES BC LTD  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR MNDCL-S FFL

### Introduction

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

- an Order of Possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67; and
- recovery of the filing fee from the tenant pursuant to section 72.

Both parties were represented at the hearing and were given an opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The corporate landlord was represented by its agent CG (the "landlord"). The co-tenant TC attended and represented both named co-tenants.

As both parties were present service was confirmed. The tenant confirmed receipt of the 10 Day Notice to End Tenancy for Unpaid Rent dated July 30, 2018 in person. The landlord testified that they served their application for dispute resolution on the tenants by posting on the rental unit door on or about August 8, 2018. The tenant confirmed receipt of the landlord's materials and testified that they had not served any evidence of their own.

During the hearing the landlord said that there is a typographic error on the monetary amount claimed in their application and that the tenant has failed to pay the rent for September and made an application to amend the monetary amount sought. As fixing typographic errors and additional amounts becoming due is reasonably foreseeable, pursuant to section 64(3)(c) of the Act and Rule 4.2 of the Rules of Procedure, I amend the landlord's application to increase the monetary claim from \$480.00 to \$1,425.00.

Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary award as claimed?

Is the landlord entitled to recover the filing fee for their application?

Background and Evidence

The parties agreed on the following facts. This tenancy began in January, 2018. The monthly rent is \$950.00 payable on the first of each month. An addendum to the tenancy agreement provides that the tenant is required to pay a pet damage deposit of \$475.00 as they own a cat. The parties agree that the tenants have not paid the pet damage deposit.

The landlord said that they issued a 10 Day Notice to End Tenancy for Unpaid Rent (the "10 Day Notice") as the tenants failed to pay the pet damage deposit as required. The parties confirmed that the 10 Day Notice was served in person on the tenants. The landlord testified that the tenants have also failed to make any rent payment for September, 2018 and the current arrears is \$1,425.00.

Analysis

Pursuant to section 46 of the Act a landlord may end a tenancy if rent is unpaid on any day after the rent is due. The landlord stated that the 10 Day Notice was issued as the tenants failed to provide a pet damage deposit. A pet damage deposit is not rent and I find that the failure of the tenants to provide a deposit does not give rise to a right to end a tenancy on the basis of Unpaid Rent. While failure to pay a deposit that is required under the tenancy agreement may give rise for a basis to end tenancy for cause, I find that in the present circumstances there was no rent arrears which would allow for the issuance of a 10 Day Notice. Consequently, I dismiss the landlord's application for an order of possession on the basis of unpaid rent.

Section 89(1) of the Act establishes the following Special rules for certain documents, which include an application for dispute resolution seeking a monetary award:

*89(1) An application for dispute resolution,...when required to be given to one party by another, must be given in one of the following ways:*

- (a) by leaving a copy with the person;*
- (b) if the person is a landlord, by leaving a copy with an agent of the landlord;*
- (c) by sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;*
- (d) if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;*
- (e) as ordered by the director under section 71(1) [director's orders: delivery and service of document]...*

I find that posting on the rental unit door is not an acceptable method of serving an application for dispute resolution seeking a monetary award. Consequently, I dismiss this portion of the landlord's application.

As the landlord's application was unsuccessful the landlord is not entitled to recover the filing fee for their application.

### Conclusion

The landlord's application for an order of possession on the basis of the 10 Day Notice and recovery of filing fees is dismissed without leave to reapply.

The landlord's application for a monetary award is dismissed with leave to reapply.

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: September 27, 2018

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Residential Tenancy Branch