



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding ATIRA PROPERTY MANAGEMENT  
INC. and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPC, MNDCL-S, FFL

### Introduction

On January 21, 2019, the Landlord submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (the “Act”) requesting an Order of Possession for the rental unit, a Monetary Order for damages, and to recover the cost of the filing fee. The matter was set for a participatory hearing via conference call.

The Landlord attended the conference call hearing; however, the Tenant did not attend at any time during the 19-minute hearing. The Landlord testified that they served the Tenant with the Notice of Dispute Resolution Proceeding by sending it via registered mail on January 22, 2019. The Landlord provided a tracking number and stated that the Canada Post website indicated that the package was delivered to the Tenant on January 25, 2019 and that the signature was available for viewing. I find that the Tenant has been duly served with the Notice of Dispute Resolution Proceeding in accordance with Section 89 the Act.

Rule 7.3 of the *Residential Tenancy Rules of Procedure* states if a party or their agent fails to attend a 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.

As the Tenant did not call into the conference, the hearing was conducted in their absence and the Application was considered along with the affirmed testimony and evidence as presented by the Landlord.

The Landlord clarified that they were not seeking a Monetary Order and were only requesting an Order of Possession and compensation for the filing fee.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issues to be Decided

Should the Landlord receive an Order of Possession for the rental unit, in accordance with Section 55 of the Act?

Should the Landlord be compensated for the cost of the filing fee, in accordance with Section 72 of the Act?

### Background and Evidence

The Landlord provided the following undisputed evidence:

The month-to-month tenancy began on November 1, 2017. The current monthly rent is \$672.00 and is due on the first of each month. The Landlord collected a \$429.00 security deposit, of which they still hold. The Tenant signed the Tenancy Agreement on October 18, 2017. The Tenant is currently living in the rental unit.

The Landlord testified that the Tenant has been late paying the rent on numerous occasions. The Landlord submitted evidence that the rent was late for September, October, November and December 2018. The Landlord referred to three breach letters and two 10-Day Notices to End Tenancy for Unpaid Rent that have been served to the Tenant in relation to the late rent issues.

The Landlord stated that they served a One-Month Notice to End Tenancy for Cause, dated January 17, 2019 (the "Notice"), to the Tenant on January 17, 2019, by placing it on her door. A Proof of Service document was submitted to support this testimony.

The Notice indicated that the end of tenancy was effective as of February 28, 2019, as a result of the Tenant repeatedly paying her rent late.

The Landlord stated that the Tenant has paid her rent for January and February 2019; however, that they collected this payment as "use and occupancy only". The Landlord is not sure if the Tenant's payment for March 2019 will go through or not. The Landlord is requesting an Order of Possession for the rental unit for March 31, 2019.

### Analysis

Based on the Landlord's undisputed evidence, I am satisfied that the Landlord had sufficient grounds to issue the Notice and obtain an end to this tenancy for cause. The

Tenant has not made application pursuant to Section 47(4) of the Act within ten days of receiving the One Month Notice. In accordance with Section 47(5) of the Act, the Tenant's failure to take this action within ten days led to the end of this tenancy on the effective date of the notice. In this case, this required the Tenant to vacate the premises by February 28, 2019. As that has not occurred, I find that the Landlord is entitled to an Order of Possession which must be served as soon as possible on the Tenant. If the Tenant does not vacate the rental unit by March 31, 2019, the Landlord may enforce this Order in the Supreme Court of British Columbia.

The Landlord's Application has merit and I find that the Landlord should be reimbursed for the cost of the filing fee, in the amount of \$100.00. Pursuant to section 72(2) of the Act, I authorize the Landlord to keep \$100.00 of the Tenant's security deposit, as compensation for the filing fee.

### Conclusion

Pursuant to Section 55 of the Act, I grant the Landlord an Order of Possession to be effective on March 31, 2019 at 1:00 p.m. This Order should be served on the Tenant as soon as possible. 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 72(2) of the Act, I authorize the Landlord to keep \$100.00 of the Tenant's security deposit, as compensation for the filing fee.

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: March 04, 2019

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Residential Tenancy Branch