



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding MAINSTREET EQUITY CORP  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      Landlord:    MNDC   MNSD   OPC   MNR   FF  
Tenant:                CNR

### **Introduction**

This hearing dealt with cross Applications for Dispute Resolution filed by the parties under the *Residential Tenancy Act* (the “*Act*”).

The Landlord’s Application for Dispute Resolution was made on March 15, 2019 (the “Landlord’s Application”). The Landlord applied for the following relief, pursuant to the *Act*:

- a monetary order for money owed or compensation for damage or loss;
- an order permitting the Landlord to retain the security deposit in partial satisfaction of the claim;
- an order of possession for unpaid rent or utilities;
- a monetary order for unpaid rent or utilities; and
- an order granting recovery of the filing fee.

The Tenant’s Application for Dispute Resolution was made on March 7, 2019 (the “Tenant’s Application”). The Tenant applied for an order cancelling a notice to end tenancy for unpaid rent or utilities, pursuant to the *Act*.

The Landlord was represented at the hearing by M.R., an agent, who provided affirmed testimony. The Tenant did not attend the hearing. Accordingly, the Tenant’s Application is dismissed, without leave to reapply.

On behalf of the Landlord, M.R. testified the Landlord's Application package was served on the Tenant by registered mail on March 18, 2019. A Canada Post registered mail receipt was submitted in support. Pursuant to section 89 and 90 of the *Act*, documents served by registered mail are deemed to be received 5 days later. I find the Tenant is deemed to have received the Landlord's Application package on March 23, 2019.

M.R. was provided with the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure and to which I was referred. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issues

1. Is the Landlord entitled to a monetary order for money owed or compensation for damage or loss?
2. Is the Landlord entitled to an order permitting the Landlord to retain the security deposit in partial satisfaction of the claim;
3. Is the Landlord entitled to an order of possession?
4. Is the Landlord entitled to a monetary order for unpaid rent or utilities?
5. Is the Landlord entitled to recover the filing fee?

### Background and Evidence

A copy of the tenancy agreement between the parties was submitted into evidence. It confirmed the tenancy began on April 1, 2016. Rent in the amount of \$970.63 per month is due on the first day of each month. The amount of rent due was supported by Notice of Rent Increase documents. The Tenant paid a security deposit in the amount of \$450.00 and a pet damage deposit of \$200.00, which the Landlord holds.

M.R. testified the Tenant did not pay rent when due on March 1, 2019. Accordingly, the Landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated March 6, 2019 (the "10 Day Notice"), which was served on the Tenant by posting a copy on the Tenant's door. A Proof of Service document confirming service in this manner was submitted into evidence. The Landlord also submitted a copy of the 10 Day Notice into evidence.

Although the Tenant vacated the rental unit on March 28, 2019, M.R. testified that the Tenant maintained a cannabis grow operation of 19 plants in the rental unit. The unit required remediation work that was only recently completed. The unit has not yet been re-rented.

In addition, the Landlord claimed \$50.00 for late fees for each of March and April 2019 (\$25.00 x 2), which is provided for in section 7 of the tenancy agreement, and \$30.00 for insurance costs for each of March and April 2019 (\$15.00), which is provided for in section 6 of the tenancy agreement.

The Tenant did not attend the hearing to dispute the Landlord's evidence.

### Analysis

Based on all of the above, the evidence and unchallenged testimony, and on a balance of probabilities, I find as follows.

As noted above, the Tenant vacated the rental unit on or about March 28, 2019. Therefore, an order of possession is no longer required.

Section 26 of the *Act* confirms that a tenant must pay rent when due under a tenancy agreement, whether or not the Landlord complies with the *Act*, the regulations or the tenancy agreement, unless the tenant has a right under the *Act* to deduct all or a portion of the rent. A tenant may be obligated to pay rent for a period after vacating the rental unit if the Landlord is unable to re-rent it due to the tenant's breach.

In this case, I am satisfied the Tenant did not pay rent when due on March 1, 2019, and that the Landlord was unable to re-rent the unit on April 1, 2019, due to the Tenant's breach. M.R. testified the unit could not be re-rented due to remediation work required, and has not been rented as of the date of the hearing. Therefore, I find the Landlord is entitled to a monetary award for unpaid rent in the amount of \$1,941.26 (\$970.63 x 2). In addition, I find the Landlord is entitled to recover the late payment fees and insurance charges, both of which are provided for in the tenancy agreement. Having been successful, I also find the Landlord is entitled to recover the \$100.00 filing fee paid to make the Landlord's Application. In the circumstances, I find it is appropriate to order that the Landlord may retain the security deposit and pet damage deposit in partial satisfaction of the Landlord's claim.

Pursuant to section 67 of the *Act*, the Landlord is granted a monetary order in the amount of \$1,471.76, which has been calculated as follows:

<b>Claim</b>	<b>Amount awarded</b>
Unpaid rent:	\$1,941.26
Late fees:	\$50.00
Insurance charges:	\$30.00
Filing fee:	\$100.00
<i>LESS</i> security deposit:	(\$450.00)
<i>LESS</i> pet damage deposit:	(\$200.00)
<b>TOTAL:</b>	<b>\$1,471.76</b>

### Conclusion

The Tenant's Application is dismissed, without leave to reapply.

The Landlord is granted a monetary order in the amount of \$1,471.76. The monetary order may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

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: April 25, 2019

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Residential Tenancy Branch