



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding FANGZHOUHOLDING.LTD and  
[tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, OPC, MNR, FFL

### Introduction

This hearing dealt with the landlord's application for an Order of Possession for unpaid rent and cause; and, request for monetary compensation for unpaid and/or loss of rent. The landlord was represented during the hearing but the tenant did not appear despite leaving the teleconference call open at least 30 minutes.

Since the tenant did not appear, I explored service of hearing documents upon the tenant. The landlord's agent submitted that the hearing package, including Amendment to an Application for Dispute Resolution, was sent to the tenant at the rental unit on March 15, 2019 and the registered mail was successfully delivered to the tenant. I have recorded the registered mail tracking number on the cover page of this decision. The landlord's agent testified that the landlord's evidence was served to the tenant, in person, at the rental unit with a witness present, on April 16, 2019. The landlord submitted a signed Proof of Service for the landlord's evidence.

I was satisfied the tenant was duly served with notification of this proceeding and the landlord's claims against the tenant and I continued to hear from the landlord's agent without the tenant present.

The landlord's agent submitted that the landlord has already obtained an Order of Possession under another dispute resolution proceeding held on April 12, 2019 (file number referenced on the cover page of this decision) and the tenant was removed from the property by a bailiff on April 26, 2019. As such, it was unnecessary to further consider whether the landlord is entitled to an Order of Possession under this Application and the only outstanding issue to resolve is the landlord's request for a Monetary Order for unpaid and/or loss of rent.

Issue(s) to be Decided

Is the landlord entitled to a Monetary Order for unpaid and/or loss of rent in the amount of \$2,500.00, as claimed?

Background and Evidence

The landlord's agent testified that under an oral agreement, the tenancy started on January 3, 2019 and the tenant was required to pay rent of \$1,000.00 on the second day of every month. A security deposit was not received from the tenant. On January 2, 2019 the tenant paid the landlord \$1,500.00 in cash which represented rent for January 2019 and the first half of February 2019. The landlord expected further payment on February 17, 2019 but the tenant refused to pay it.

On February 22, 2019 the landlord served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent indicating rent of \$500.00 was outstanding as of February 17, 2019. The landlord's agent testified that after serving the tenant with the 10 Day Notice he did not pay any rent.

The landlord submitted that on February 22, 2019 the tenant was served with a 1 Month Notice to End Tenancy for Cause.

The tenant did not file to dispute either of the above described Notices to End Tenancy but the landlord filed an Application for Dispute Resolution seeing an early end of tenancy due to an incident that occurred on March 13, 2019 and the Arbitrator presiding over that hearing on April 12, 2019 granted the landlord an Order of Possession effective two days after service. The landlord hired a bailiff to enforce the Order of Possession and the tenant was removed from the property on April 26, 2019.

The landlord seeks a Monetary Order of \$2,500.00 for unpaid and loss of rent for the following periods: \$500.00 owed for the second half of February 2019; \$1000.00 owed for March 2019 and \$1,000.00 for April 2019.

Analysis

The Residential Tenancy Act applies to all residential tenancy agreements between a landlord and a tenant with respect to the tenant's right to possession a rental unit, unless specifically exempt from application of the Act. The Act defines tenancy

agreement to include oral agreements and express or implied terms. Accordingly, the tenant was obligated to fulfill his obligations under the oral tenancy agreement entered into with the landlord and their agreement is enforceable under the Act.

Under section 26 of the Act, a tenant is required to pay rent when due in accordance with their tenancy agreement, even if the landlord has violated the Act, regulations or tenancy agreement, unless the tenant has a legal right to withhold rent.

I accept the unopposed evidence of the landlord's agent that under an oral tenancy agreement the tenant was required to pay monthly rent of \$1,000.00 on the second day of every month starting January 3, 2019. I accept that the only payment received from the tenant was \$1,500.00 to cover the month of January 2019 and first half of February 2019 and the tenant continued to occupy the rental unit until April 26, 2019. I was presented no evidence to suggest the tenant had a lawful right to withhold rent from the landlord.

Based on the above, I find the landlord has satisfied me that the landlord is entitled to recover unpaid and/or loss of rent from the tenant in the amount requested of \$2,500.00. I further award the landlord recovery of the \$100.00 filing fee paid for this application.

The landlord is provided a Monetary Order in the sum of \$2,600.0 to serve and enforce upon the tenant.

### Conclusion

The landlord is provided a Monetary Order in the sum of \$2,600.00 to serve and enforce upon the tenant.

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: May 02, 2019

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Residential Tenancy Branch