



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      LANDLORD: OPR, MNR, MNDC, MNSD, FF  
TENANT: CNR, FF

### Introduction

This hearing dealt with cross applications for Dispute Resolution filed by both the Landlord and the Tenant.

The Landlord filed seeking an Order of Possession, a monetary order for unpaid rent, to retain the security deposit and to recover the filing fee for this proceeding.

The Tenant filed to obtain an order to cancel the Notice to End Tenancy and to recover the filing fee for this proceeding.

Service of the hearing documents by the Landlord to the Tenant was done by post the documents on the door on April 5, 2019 in accordance with section 89 of the Act.

As the Tenant did not attend the hearing the service of the Tenant's documents is unknown.

### Issues to be Decided

Landlord:

1. Is the Landlord entitled to an Order of Possession?
2. Is there unpaid rent and if so how much?
3. Is the Landlord entitled to compensation for unpaid rent and if so how much?

Tenant:

1. Is the Tenant entitled to an order to cancel the Notice to End Tenancy?

### Background and Evidence

This tenancy started on December 15, 2019 as a month to month tenancy. Rent is \$1,050.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$525.00 at the start of the tenancy.

The Landlord said that the Tenant did not pay rent of \$550.00 for the month of February 2019 and \$1,050.00 for the month of March 2019 when it was due. As a result, on March 15, 2019, he posted on the Tenant's door a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated March 15, 2019. Further the Landlord said the Tenant has unpaid rent for April and May in the amount of \$1,050.00 for each month. The Landlord said the total unpaid rent is \$3,700.00.

Further the Landlord said the Tenant is living in the unit and he is requesting to end the tenancy as soon as possible because of the unpaid rent.

The Landlord also said he is seeking to recover the \$100.00 filing fee for this proceeding and to retain the Tenant's security deposit as partial payment of the unpaid rent.

### Analysis

Section 26 (1) of the Act says a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent

I find that the Tenant has not paid the overdue rent and the Tenant does not have the right to withhold a part or all of the unpaid rent. Further as the Tenant did not attend the hearing to defend her claims I dismiss the Tenant's application without leave to reapply.

I accept the Landlords' testimony and evidence that there is unpaid rent in the amount of \$3,700.00 for February, March, April and May, 2019. I find for the Landlord and award the Landlord unpaid rent in the amount of \$3,700.00. As well, since the Landlord has been successful in this matter I also order the Landlord to recover the filing fee of \$100.00 for this proceeding from the Tenant and I order the Landlord to retain the Tenant's security deposit of \$525.00 as partial payment of the unpaid rent. A Monetary Order in the following amount is awarded to the Landlord.

Unpaid rent	\$3,700.00
Filing fee	\$ 100.00

Sub Total		\$3,800.00
Less:		
Security deposit	\$ 525.00	
Sub Total		\$ 525.00
Amount owing		\$3,275.00

Further as the Tenant has unpaid rent and the Tenant's application to cancel the 10 Day Notice to End Tenancy for Unpaid Rent has been dismissed: I grant the Landlord an Order of Possession effective 2 days after service of the Order on the Tenant.

#### Conclusion

An Order of Possession effective two days after service and a Monetary Order in the amount of \$3,275.00 have been issued to the Landlord. A copy of the Orders must be served on the Tenant: the Order of Possession may be enforced in the Supreme Court of British Columbia and the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia.

The Tenant's application is dismissed without leave to reapply and the Tenant is ordered to bear the cost of the \$100.00 filing fee which the Tenant has already paid.

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 14, 2019

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Residential Tenancy Branch