



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding BCIMCREALTYCORPORATION C/O QUADREAL RESIDENTIAL  
and [tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes:** OPR, CNR, OLC, MNDC, PSF, RR, MNSD, FF

### **Introduction**

This hearing dealt with applications by the landlord and the tenant, pursuant to the *Residential Tenancy Act*.

The landlord applied for an order of possession and for a monetary order for unpaid rent. The landlord also applied to retain the security deposit in partial satisfaction of the claim.

The tenant applied to cancel the notice to end tenancy for non-payment of rent and for a monetary order for compensation for loss under the *Act*. The tenant also applied for an order directing the landlord to comply with the *Act*, provide services and reduce rent. The tenant applied for the recovery of the filing fee.

Both parties attended this hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The tenant represented himself and was accompanied by his agent. The landlord was represented by their agent and legal counsel.

As both parties were in attendance I confirmed service of documents. The parties confirmed receipt of the other's application for dispute resolution and evidence. I find that evidence was served to both parties in accordance with sections 88 and 89 of the *Act*.

RTB Rules of Procedure 2.3 states that if in the course of a dispute resolution proceeding, the Arbitrator determines that it is appropriate to do so, the Arbitrator may dismiss unrelated disputes contained in a single application with or without leave to reapply. In this regard I find the tenant has applied for an order for the landlord to comply with the *Act*, provide services and reduce rent. As these sections of the tenant's application are

unrelated to the main section which is to cancel the 10-day notice, I dismiss these sections of the tenants claim with leave to reapply.

Accordingly this hearing only dealt with the tenant's application to set aside the notice to end tenancy.

### **Issues to be decided**

Is the landlord entitled to an order of possession or should the notice to end tenancy be set aside?

### **Background and Evidence**

The parties agreed to the following. The tenancy started on March 01, 2011 and the current monthly rent is \$1,981.00 payable on the first of the month. Prior to moving in the tenant paid a security deposit of \$827.50.

The landlord stated that the tenant failed to pay rent that was due on May 01, 2019. On May 13, 2019, the landlord served the tenant with a notice to end tenancy for \$1,976.00 in unpaid rent. The tenant disputed the notice in a timely manner and continued to occupy the rental unit without paying rent. The landlord stated as of the date of this hearing, the tenant owes rent for the months of May, June, and July 2019 but was willing to forgive rent for July if the landlord was granted an order of possession.

The tenant agreed that he had not paid rent for the months of May, June and July 2019.

The landlord agreed to allow the tenancy to continue till July 09, 2019 and requested for an order of possession effective this date.

### **Analysis**

Pursuant to section 46 (4) of the *Residential Tenancy Act* within five days after receiving the notice to end tenancy, the tenant may pay the overdue rent or dispute the notice by making application for dispute resolution. If the tenant does not pay rent or dispute the notice, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must vacate the rental unit, by that date.

Based on the sworn testimony and documentary evidence of both parties, I find that the tenant received the notice to end tenancy for unpaid rent, on May 13, 2019 and did not pay rent within five days of receiving the notice to end tenancy and the time to do so

has expired. The tenant agreed that he owed a total of \$3,962.00 in unpaid rent for the months of May and June 2019.

In these situations, the *Residential Tenancy Act* provides that the tenant has been deemed to have accepted the end of the tenancy on the date set out in the notice. Pursuant to section 55(2), I am issuing a formal order of possession effective by 1:00pm on July 09, 2019. The order may be filed in the Supreme Court for enforcement.

The landlord is currently holding a security deposit in the amount of \$827.50 and has established a total claim of \$3,962.00. I order that the landlord retain the security deposit in partial satisfaction of the claim and I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the balance due of \$3,134.50. This order may be filed in the Small Claims Court and enforced as an order of that Court.

### **Conclusion**

I grant the landlord an order of possession effective by 1:00pm on July 09, 2019 and a monetary order in the amount of \$3,134.50.

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: July 02, 2019

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Residential Tenancy Branch