



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPC, MNDL-S, MNRL-S, FFL

### Introduction

This hearing was convened as a result of the landlord's application for dispute resolution under the Residential Tenancy Act (the "Act"). The landlord applied for an order of possession for the rental unit due to a One Month Notice to End Tenancy for Cause, a monetary order for money owed or compensation for damage or loss, for unpaid rent, and for recovery of the filing fee paid for this application.

The landlord and the tenant attended, the hearing process was explained and they were given an opportunity to ask questions about the hearing process.

The evidence was discussed and neither party raised an issue regarding service of the landlord's application or evidence.

Thereafter the participants were provided the opportunity to present their evidence orally and to refer to relevant documentary and photographic evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral, photographic, and documentary evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (the "Rules"); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

### Issue(s) to be Decided

Is the landlord entitled to monetary compensation from the tenants and to recovery of their filing fee paid for this application?

### Background and Evidence

The landlord submitted that the tenancy was to begin on December 1, 2018, that monthly rent was \$900.00 and that the tenants did not pay a security deposit. No tenancy agreement was provided.

#### *Order of possession-*

In his application for dispute resolution, the landlord requested an order of possession of the rental unit due to late payment of rent, endangering a child, elevating the heating and air conditioning units and damage to the landlord's car.

The landlord referred to a previous dispute resolution hearing and Decision, which I have reviewed.

As to the remaining issue, the landlord's monetary claim is \$1,562.82 for damage to his car and \$450.00, for one-half month's rent.

#### *Car damage-*

The landlord claimed the tenant's son was on the hood of his 1984 vehicle left parked in the driveway of the rental unit, causing damage.

The landlord submitted estimates for the repair and a grainy, black and white copy of a photo of a child on the hood of the car.

In response, the tenant pointed out there were no pictures of the car showing the condition and that he did not know if that was his child on the hood.

#### *Unpaid rent-*

The landlord submitted that although the tenancy was set to begin on December 1, 2018, the tenants moved into the rental unit on November 15, 2018, and did not pay rent for that half month.

The landlord confirmed he had given the tenants the key to the rental unit early as they asked permission to start gradually moving their personal property in; however, his neighbour reported that they fully moved in on November 15, 2018.

In response, the tenant submitted that there was nothing in any tenancy agreement that they could not move in early and that he does not recall agreeing to the move-in date.

### Analysis

After reviewing the relevant evidence, I provide the following findings, based upon a balance of probabilities:

#### *Order of possession-*

I have reviewed the previous Decision of another arbitrator, dated June 26, 2019, which granted the landlord an order of possession of the rental unit based upon a One Month Notice previously served on the tenants. The order of possession of the rental unit is effective on August 31, 2019.

As the landlord has already been granted the order of possession, I dismiss this portion of his application.

#### *Car damage-*

The Act applies to tenancy agreements, the rental unit and the residential property. The residential property is defined in the Act as the rental unit and common areas, the building or part of the building in which the rental unit is located, and any other structure located on the parcel or parcels.

The car he left parked at the rental unit was not part of the rental unit, was not part of the parcel where the rental unit was located, and was not a structure attached to the parcel. Additionally, I find no evidence was submitted to show the car was part of the tenancy agreement.

As I find the landlord's car forms no part of the tenancy agreement and is not part of the residential property, I decline to accept jurisdiction to decide this part of the landlord's application.

The landlord is at liberty to seek the appropriate legal remedy to this dispute.

*Unpaid rent-*

I find the undisputed evidence is that the tenancy was to begin on December 1, 2018, and that the tenants moved into the rental unit on November 15, 2018. Also, there was no dispute that the monthly rent of the tenants is \$900.00.

As the undisputed evidence shows the tenants moved in a half month early and did not pay rent, I find the landlord is entitled to his claim of \$450.00.

I award the landlord recovery of his filing fee of \$100.00, due to having partial success with his application.

I therefore grant the landlord a final, legally binding monetary order pursuant to section 67 of the Act for the amount of \$550.00.00, comprised of \$450.00 for a half month's rent and the filing fee of \$100.00.

Should the tenants fail to pay the landlord this amount without delay, the order must be served on the tenants to be enforceable. Thereafter, if necessary, the order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an order of that Court. The tenants are advised that costs of such enforcement are recoverable from the tenants.

Conclusion

The landlord's application is granted in part and dismissed in part.

The landlord's request for an order of possession of the rental unit is dismissed, due to a prior dispute resolution Decision granting him the order.

The landlord's request for costs of damage has been declined for consideration.

The landlord's request for half a month's rent and recovery of the filing fee is granted.

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: August 14, 2019

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Residential Tenancy Branch