



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR & FF

The Application for Dispute Resolution filed by the landlord makes the following claims:

- a. An Order for Possession for non-payment of rent
- b. A monetary order in the sum of \$3115 for unpaid rent and damages
- c. An order to recover the cost of the filing fee

The tenant(s) failed to appear at the scheduled start of the hearing which was 9:30 a.m. on September 6, 2019. A representative of the landlord was present and ready to proceed. I left the teleconference hearing connection open and did not start the hearing until 10 minutes after the schedule start time in order to enable the tenant to call in. The tenant(s) failed to appear. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I then proceeded with the hearing. The representative of the landlord was given a full opportunity to present affirmed testimony, to make submissions and to call witnesses.

On the basis of the solemnly affirmed evidence presented at the hearing a decision has been reached. All of the evidence was carefully considered.

I find that the 10 day Notice to End Tenancy was served on the Tenant on by posting on June 12, 2019. Further I find that the Application for Dispute Resolution and Notice of Dispute Resolution Hearing was served on the Tenant by posting on July 30, 2019. With respect to each of the applicant's claims I find as follows:

Posting is a sufficient method of service for hearing the landlord's application for an Order of Possession. However, the Act requires personal service or service by registered mail for the purpose of making a monetary claim.

### **Issue(s) to be Decided:**

The issues to be decided are as follows:

- a. Whether the landlord is entitled to an Order for Possession?
- b. Whether the landlord is entitled to A Monetary Order and if so how much?
- c. Whether the landlord is entitled to recover the cost of the filing fee?

Background and Evidence:

The tenancy began on March 1, 2018 and MP took possession of the rental unit. The tenants failed to attend to signing the tenancy agreement. The rent was \$1005 per month payable in advance on the first day of the month. The tenants failed to pay a security deposit.

On December 18, 2018 MP moved out of the rental unit.

The tenant refused to downsize and/or work with the social workers and the tenant support worker to gain custody of his child.

On April 25, 2019 the tenant gave the landlord notice in writing that he was vacating at the end of May 2019.

The tenant is over housed and has not paid the rent for a designated two (2) bedroom unit. The tenant has paid \$570 per month in rent leaving a balance of \$435 per month since January 1, 2019. The total unpaid rent from January 1, 2019 to and including July 1, 2019 is \$3115. The tenant also owes \$70 for a key replacement. The landlord has not received a subsidy on behalf of the tenant from any organization.

The tenant is operating the rental unit as a hostel renting between 4 to 6 beds per night.

The tenant continues to reside in the rental unit.

Analysis - Order of Possession:

I determined the landlord was entitled to an Order for Possession. There is outstanding rent. The Tenant(s) has not made an application to set aside the Notice to End Tenancy and the time to do so has expired. In such situations the Residential Tenancy Act provides 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. Further, the tenant gave the landlord written notice that he was vacating the rental unit at the end of May 2019. Accordingly, I granted the landlord an Order for Possession on 2 days notice.

The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court of British Columbia for enforcement.

Analysis - Monetary Order and Cost of Filing fee:

I dismissed the claim for a monetary order and the cost of the filing fee with liberty to re-apply as the landlord failed to serve by a method required by the Act for the purpose of making a monetary claim.

**This decision is final and binding on both parties.**

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: September 06, 2019

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Residential Tenancy Branch