



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding PREHOFER CONSTRUCTION  
LTD and [tenant name suppressed to protect privacy]

## DECISION

**Dispute Codes**      FFL MNRL-S OPR

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the "**Act**") for:

- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- an Order of Possession for non-payment of rent pursuant to section 55;
- a monetary order for unpaid rent in the amount of \$1,842.20 pursuant to section 67;
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 9:45 am in order to enable the tenant to call into this teleconference hearing scheduled for 9:30 am. The landlord's agent attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord's agent and I were the only ones who had called into this teleconference.

The landlord's agent testified that the tenant was served the notice of dispute resolution form and supporting evidence package via registered mail on July 18, 2019. The landlord's agent provided a Canada Post tracking number confirming this mailing which is reproduced on the cover of this decision. I find that the tenant was deemed served with this package on Jul 23, 2019, five days after the landlord's agent mailed it, in accordance with sections 88, 89, and 90 of the Act.

**Preliminary Issue – Amendment of Claim**

On the application for dispute resolution, the landlord is name PR PC LTD. PR is the name of the landlord's agent. PC LTD is the name of the company listed as landlord on the tenancy agreement. PR is not a party to the tenancy agreement.

Accordingly, PR is not a proper party to this application. As such, pursuant to Rule of Procedure 4.2, I order that the application be amended to remove PR as a party.

**Issue(s) to be Decided**

Is the landlord entitled to:

- 1) an order of possession;
- 2) a monetary order in the amount of \$1,842.20 for unpaid rent for June and July, 2019; and
- 3) recover its filing fee?

**Background and Evidence**

While I have considered the documentary evidence and the testimony of the landlord's agent, not all details of his submissions and arguments are reproduced here. The relevant and important aspects of the landlord's claims and my findings are set out below.

The parties entered into a written tenancy agreement starting June 1, 2016. Monthly rent is \$921.10 and is payable on the first of each month. The tenant paid the landlord a security deposit of \$425.00. The landlord still retains this deposit.

The landlord's agent testified that he taped the Notice to the tenant's door on July 2, 2019. The Notice stated that \$1,842.20 in rent was owed as of July 1, 2019.

The landlord's agent testified that, to date, the tenant has not paid rent for June or June 2019, and that the tenant is in rental arrears of \$1,842.20.

The landlord's agent testified that the tenant abandoned the rental unit as of July 21, 2019.

## **Analysis**

In accordance with sections 88 and 90 of the Act, I find that the tenant was served with the Notice on July 5, 2019, three days after posting it to the rental unit door.

I find that the tenant was obligated to pay monthly rent in the amount of \$921.10, as established in the tenancy agreement. Section 26 of the Act requires that a tenant pay rent when it is due under the tenancy agreement. I accept the evidence before me that the tenant has failed to pay the balance of rental arrears due by July 1, 2019, in the amount of \$1,842.20, comprised of the balance of unpaid rent owed for June and July 2019.

I accept the landlord's agent's undisputed evidence and find that the tenant did not pay the rent owed in full within the five days granted under section 46(4) of the Act and did not apply to dispute the Notice within that five-day period.

Based on the foregoing, I find that the tenant is conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the corrected effective date of the Notice, July 15, 2019.

Therefore, I find that the landlord is entitled to an order of possession.

Section 7 of the Act states:

### **Liability for not complying with this Act or a tenancy agreement**

**7(1)**If a landlord or tenant does not comply with this Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other for damage or loss that results.

Therefore, I find that the landlord is entitled to a monetary order of \$1,842.20 representing rental arrears for June and July 2019. Pursuant to section 72(2) of the Act, I order that the landlord may retain the security deposit in partial satisfaction of this amount.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee paid for this application.

In summary, I order that the tenant pay the landlord, \$1,517.20, as follows:

Rental Arrears	\$1,842.20
Filing Fee	\$100.00
Deposit	-\$425.00
<b>Total</b>	<b>\$1,517.20</b>

### Conclusion

I grant an order of possession to the landlord effective September 16, 2019 at 1:00 pm. Should the tenant fail to comply with this order, this order may be filed in, and enforced as an order of, the Supreme Court of British Columbia.

Pursuant to sections 67 and 72 of the Act, I find that the landlord is entitled to a monetary order in the amount of \$1,517.20. Should the tenant fail to comply with this order, this order may be filed in, and enforced as an order of, the Small Claims Division of the Provincial Court.

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 13, 2019

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Residential Tenancy Branch