



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## 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:

- an Order of Possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent and for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenants' pet damage and security deposits (the deposits) in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover his filing fee for this application from the tenants pursuant to section 72.

The landlord gave written evidence and sworn oral testimony that copies of the landlord's dispute resolution hearing package was sent to the tenant by registered mail on July 27, 2019. The landlord provided documentation from Canada Post showing the tenant signed for and accepted the package on August 1, 2019. In accordance with section 89 of the *Act*, I am satisfied that the tenant has been served notice of this hearing and the landlord's application, accordingly; the hearing proceeded and completed in the absence of the tenant.

### Issues(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent?

Is the landlord entitled to a monetary award for unpaid rent?

Is the landlord entitled to retain all or a portion of the tenants' deposits in partial satisfaction of the monetary award requested?

Is the landlord entitled to recover the filing fee for this application from the tenants?

### Background and Evidence

The landlord gave the following undisputed testimony. The tenancy began on or about May 1, 2006. Rent in the amount of \$1710.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$675.00. The landlord testified that the tenant has been falling behind in rent for the past year on a consistent basis. the landlord served the tenant with a notice to end tenancy on July 12, 2019 for \$10,350.00 in unpaid rent. The landlord advised that the tenant has made partial payments and as of today, the amount outstanding is \$6071.00

### Analysis

*I accept the landlord's undisputed testimony and* I find that the tenant was served with a notice to end tenancy for non-payment of rent. The tenant did not pay the outstanding rent within 5 days of receiving the notice and did not apply for dispute resolution to dispute the notice and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice as per section 46(5) of the Act. Based on the above facts I find that the landlord is entitled to an order of possession pursuant to Section 55 of the Act. The tenant must be served with the order of possession. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

As for the monetary order, I find that the landlord has established a claim for \$6071.00 in unpaid rent. The landlord is also entitled to recovery of the \$100.00 filing fee. I order that the landlord retain the \$675.00 deposit and the \$22.76 in interest which has accrued to the date of this judgment in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$5473.24. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

### Conclusion

The landlord is granted an order of possession and a monetary order for \$5473.24. The landlord may retain the security deposit.

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 26, 2019

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Residential Tenancy Branch