



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding COLUMBIA PROPERTY MANAGEMENT LTD. and [tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes**      **FFL MNDCL-S MNRL-S OPR**

### **Introduction**

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

- Authorization to recover the filing fees from the tenants pursuant to section 72;
- A monetary order for damages or compensation and authorization to retain a security deposit pursuant to sections 38 and 67;
- A monetary order for rent and/or utilities and authorization to retain a security deposit pursuant to sections 38 and 67; and
- An Order of Possession for unpaid Rent pursuant to sections 46 and 55.

The tenants did not attend this hearing, although I left the teleconference hearing connection open until 9:41 a.m. to enable the tenants to call into this teleconference hearing scheduled for 9:30 a.m. 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 and I were the only ones who had called into this teleconference.

The landlord attended the hearing and was represented by property manager KB ("landlord"). The landlord was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The landlord testified she served each of the tenants with the Application for Dispute Resolution Proceedings Package by registered mail on August 30, 2019 and both tenants signed for the delivery on September 17<sup>th</sup>. The tracking numbers are listed on the cover page of this decision. I am satisfied the tenants were served with the Application for Dispute Resolution Proceedings Package in accordance with section 89 of the *Act*.

### **Preliminary Issue**

Since the filing of the Application for Dispute Resolution, the landlord submits tenants have not paid rent. The landlord sought to amend her claim to include unpaid rent for the months of September and October and I allowed this amendment pursuant to Rule 4.2 of the Residential Tenancy Branch Rules of Procedure.

#### Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order for unpaid rent and other compensation?

Can the landlord recover the filing fee?

#### Background and Evidence

The landlord provided a copy of the tenancy agreement as evidence. The tenancy began on October 1, 2016 with rent set at \$1,450.00 payable on the first day of the month. A security deposit of \$725.00 was collected by the landlord which she continues to hold. Rent was increased to \$1,505.00 in September of 2018 and further increased to \$1,540.00 on September 1, 2019.

The landlord provided the following undisputed testimony. The tenants were consistently late paying rent. Each late payment incurred a \$25.00 fee as agreed to in section B of the addendum to the tenancy agreement. On August 1, 2019, the tenants were in arrears of \$5.00 from November 2018's rent and the tenants did not pay any rent for the month of August, September or October.

On August 7, 2019 the landlord posted a 10 Day Notice to End Tenancy for Unpaid Rent ("Notice") by posting it to the door of the tenants' rental unit. A copy of the Notice and a witnessed proof of service document were entered as evidence. The Notice indicates the tenants are in arrears of \$1,510.00 due as of August 1, 2019. The effective date on the Notice is August 17<sup>th</sup>. The landlord submits the tenants are liable to pay late fees as well as unpaid rent.

#### Analysis

I find the tenants were deemed served with the Notice on August 10, 2019, three days after posting to the tenants' door pursuant to sections 89 and 90 of the *Act*.

The tenants failed to pay the full rent identified as owing on the Notice or made an application to dispute it within five days of receiving it, pursuant to section 46(4) of the *Act*. In accordance with section 46(5) of the *Act*, the tenants' failure to take either of these actions within five days ended their tenancy on the effective date of the Notice. In this case, this required the tenant to vacate the premises by August 17<sup>th</sup>, automatically

changed to August 20<sup>th</sup> in accordance with section 53 of the *Act*. As the tenants have not yet vacated the premises, I find that the landlord is entitled to an Order of Possession effective 2 days after service.

The landlord is given a formal Order of Possession which must be served on the tenants. If the tenants do not vacate the rental unit within 2 days of receiving the Order, the landlord may enforce this Order in the Supreme Court of British Columbia.

The landlord gave undisputed evidence that the tenants failed to pay outstanding rent, arrears and late fees. Pursuant to section 67 of the *Act*, the landlord is entitled to:

Item	Amount
Outstanding arrears for November rent	\$5.00
August rent	\$1,505.00
Late fee for August	\$25.00
September rent	\$1,540.00
Late fee for September	\$25.00
October rent	\$1,540.00
Late fee for October	\$25.00
<b>Total</b>	<b>\$4,665.00</b>

As the landlord's application was successful, the landlord is also entitled to recovery of the \$100.00 filing fee for the cost of this application.

The landlord continues to hold the tenant's security and pet damage deposits totaling \$1,450.00. In accordance with the offsetting provisions of section 72 of the *Act*, I order the landlord to retain both the tenant's security deposit and pet damage deposit in partial satisfaction of the monetary order.

Item	Amount
Rent arrears and late fees (above)	\$4,665.00
Filing fee	\$100.00
Less security deposit	(\$725.00)
Less pet damage deposit	(\$725.00)
<b>Total</b>	<b>\$3,315.00</b>

### Conclusion

I grant an Order of Possession to the landlord effective **2 days after service on the tenant**. Should the tenants or anyone on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I issue a monetary order in the landlord's favour in the amount of **\$3,315.00**.

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: October 22, 2019

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Residential Tenancy Branch