



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      **FFL, OPR, OPC, MNRL**

### Introduction

This hearing dealt with an application by the landlord under the *Residential Tenancy Act* (the *Act*) for the following:

- A monetary order for unpaid rent and for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* (“*Regulation*”) or tenancy agreement pursuant to section 67 of the *Act*;
- An order for possession under a 10-Day Notice to End Tenancy for Unpaid Rent (“Ten-Day Notice”) pursuant to sections 46 and 55;
- An order for possession under a One Month Notice to End Tenancy for cause pursuant to sections 47 and 55;
- Authorization to recover the filing fee for this application pursuant to section 72.

I conducted this hearing by teleconference. The landlord attended. The tenant’s father, LV (“the tenant”) joined the hearing 20 minutes after the hearing started and explained that he was representing the tenant.

The hearing process was explained, and both parties had an opportunity to ask questions.

The landlord testified the landlord served the tenant with the Application for Dispute Resolution and supporting documents pursuant to section 89 of the *Act* by registered mail sent on February 26, 2020. The landlord provided the Canada Post tracking number for the registered mail referenced on the first page of this decision.

Pursuant to sections 89 and 90, I find the landlord served the tenant on March 2, 2020 the 5<sup>th</sup> day after mailing

At the outset, the parties informed the Arbitrator that the tenant had vacated the unit on March 1, 2020. The tenant's father who attended the hearing testified that he was present when the tenant vacated and agreed as agent of the tenant to an Order of Possession effective March 1, 2020 at 1:00 PM. The tenant did not agree to a monetary award.

### *Preliminary Issues*

At the outset, the landlord requested the following:

- Amendment of the application to reduce the amount requested for a monetary award to rent outstanding for the month of February 2020 in the amount of \$2,400.00.

Rule 4 of the Rules of Procedure allows for the amendment of an application at the hearing in circumstances that can reasonably be anticipated; if sought at the hearing, such an amendment need not be submitted or served.

In consideration of the evidence filed and the testimony of the landlord, further to Rule 4, I find the tenant could reasonably have anticipated that the landlord would reduce the amount claimed for outstanding rent. I accordingly allow the landlord to amend the application as sought.

The landlord clarified the landlord's claim as follows:

ITEM	AMOUNT
Rent	\$2,400.00
Reimbursement of the filing fee	\$100.00
<b>Total Monetary Award Requested</b>	<b>\$2,500.00</b>

### Issue(s) to be Decided

Is the landlord entitled to a monetary order pursuant to section 67?

Is the landlord entitled to reimbursement of the filing fee pursuant to section 72?

### Background and Evidence

The landlord testified that the parties entered into a verbal residential tenancy agreement commencing December 1, 2019. Rent was \$2,400.00 a month payable on the first of the month. No security deposit was paid.

As stated above, the tenant vacated the unit on March 1, 2020. The landlord testified the tenant did not pay rent for the month of February 2020 which was not contradicted by the tenant.

The landlord issued the Ten-Day Notice which the landlord testified the landlord personally on February 2, 2020 by posting to the tenant's door, thereby affecting service under section 90 on February 5, 2020. The landlord provided a witnessed Proof of Service form.

The landlord submitted as evidence a copy of the Ten-Day Notice with an effective vacancy date of February 13, 2020 amended to February 15, 2020. The Notice required the tenant to pay the rent and utilities to the landlord or file an Application for Dispute Resolution within five days.

The landlord testified the tenant did not pay the rent owing or file an Application for Dispute Resolution within five days. The landlord submitted supporting documents of all payments made by the tenant during the tenancy.

The landlord provided uncontradicted testimony that rent is owing in the amount of \$2,400.00.

The landlord requested a monetary order for outstanding rent of \$2,400.00 and reimbursement of the filing fee of \$100.00.

The landlord requested an order of possession effective March 1, 2020 to which the tenant consented.

### Analysis

I have reviewed all documentary evidence and testimony.

I find the form and content of the Ten-Day Notice complies with section 52 of the Act.

I find the tenant was served with the Ten-Day Notice in accordance with sections 88 and 90 of the Act.

I find the tenant did not pay the overdue rent or dispute the Ten-Day Notice within the five-day period following service. I find the tenant vacated the unit before 1:00 PM on March 1, 2020 as testified by the tenant.

Based on the uncontradicted evidence of the landlord, I find the landlord is entitled to a monetary order pursuant to section 67 in the amount of \$2,400.00 for unpaid rent. I award the landlord reimbursement of the \$100.00 filing fee.

A summary of my monetary finding follows:

ITEM	AMOUNT
Rent	\$2,400.00
Reimbursement of the filing fee	\$100.00
<b>Total Monetary Award Requested</b>	<b>\$2,500.00</b>

### Conclusion

I grant a monetary order to the landlord in the amount of **\$2,500.00**.

This order must be served on the tenant. If the tenant fails to comply with this order, the landlord may file the order in the Provincial Court (Small Claims) and be enforced as an order of that Court.

I also grant the landlord an order of possession effective March 1, 2020 to which the tenant requested. As the tenant has vacated the unit, I find that the order does not have to be served on the tenant.

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.

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Dated: March 26, 2020

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Residential Tenancy Branch