



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding PROSPERO INTERNATIONAL REALTY  
INC. and [tenant name suppressed to protect privacy]

## DECISION

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

### Introduction

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

- an Order of Possession for unpaid rent pursuant to section 55;
- a Monetary Order for unpaid rent and utilities pursuant to section 67; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The corporate landlord was represented by its agents.

As both parties were present service was confirmed. The tenant confirmed receipt of the landlord's materials and said they had not provided any evidence. Based on the testimonies I find the tenant was served with the materials in accordance with sections 88 and 89 of the *Act*.

### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?  
Is the landlord entitled to a monetary award as claimed?  
Is the landlord entitled to recover the filing fee from the tenant?

### Background and Evidence

The parties agree on the following facts. The monthly rent for this tenancy is \$2,320.00 payable on the first of each month. The tenant is also responsible for paying electricity utilities. There is a security deposit and pet damaged deposit of \$1,150.00 each collected at the start of the tenancy and still held by the landlord.

The landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent dated March 16, 2020 indicating an arrear of \$4,640.00. The tenant did not make any payment against the arrear. The parties both agreed that the total arrear for this tenancy including unpaid rent, utilities and late charges as of the date of the hearing is \$9,540.92.

### Analysis

The parties agree that there was an arrear of \$4,640.00 as at March 16, 2020 the date of the 10 Day Notice. The parties confirmed that the tenant did not make any payment towards the arrear nor did they dispute the 10 Day Notice. Accordingly, I find that the tenants are conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy ended on the corrected effective date of the 10 Day Notice, March 29, 2020.

The 10 Day Notice is dated March 16, 2020 and was issued prior to the *Ministerial Order M089* issued March 30, 2020 pursuant to the State of Emergency declared on March 18, 2020. Therefore, in accordance with section 3(2) of the Ministerial order and pursuant to section 55 of the *Act*, I find that the landlord is entitled to an Order of Possession.

I accept the evidence of the parties that the total amount of the arrear for this tenancy as of the date of the hearing is \$9,540.92. I issue a monetary award in the landlord's favour in that amount pursuant to section 67 of the *Act*

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

In accordance with sections 38 and the offsetting provisions of 72 of the *Act*, I allow the landlord to retain the tenant's security and pet damage deposit of \$2,300.00 in partial satisfaction of the monetary award issued in the landlord's favour.

Conclusion

I grant an Order of Possession to the landlord effective **2 days after service on the tenants**. Should the tenant 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 \$7,340.92, allowing the landlord to recover the arrears for this tenancy and filing fee and retain the security and pet damage deposits.

The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that 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: May 28, 2020

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Residential Tenancy Branch