



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Cascadia Apartment Rentals Ltd. and  
[tenant name suppressed to protect privacy]

## **DECISION**

### **Dispute Codes**

MNR-S, FF

### **Introduction**

This hearing dealt with the landlord's application for dispute resolution under the Residential Tenancy Act (Act) for:

- a monetary order for unpaid rent;
- authority to keep the tenant's security deposit to use against a monetary award; and
- recovery of the filing fee.

The landlord's agent (landlord) attended the hearing; however, the tenant did not attend.

The landlord stated she served the tenant with their application for dispute resolution and Notice of Hearing by email attachment on May 4, 2020. The landlord said she used the email address the tenant wrote on the tenancy agreement. She further submitted evidence of their email communication containing that same email address.

I accept the landlord's evidence that the tenant was served notice of this hearing in a manner complying with the Director's Order in place at the time, allowing email service of documents, and the hearing proceeded in the tenant's absence.

The landlord was provided the opportunity to present her evidence orally and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure (Rules). However, not all details of the submissions and/or arguments are reproduced here.

Issue(s) to be Decided

Is the landlord entitled to monetary compensation from the tenant and recovery of the filing fee?

Background and Evidence

The landlord submitted a written tenancy agreement showing a tenancy start date of April 1, 2019, a fixed term through March 31, 2020, monthly rent of \$2,450, due on the 1<sup>st</sup> day of the month, and a security deposit of \$1,225 being paid by the tenant to the landlord. The written tenancy agreement shows the tenancy would continue after the date of the fixed term, on a month-to-month basis.

The landlord retained the tenant's security deposit, having made this claim against it.

In support of their application, the landlord submitted that the tenant did not pay his rent for the month of April 2020, and further, he emailed her on May 1, 2020, informing the landlord he was vacating immediately.

The landlord submitted that due to the insufficient notice to vacate, the landlord is owed \$2,450 for loss of rent revenue, as there was no time to find new tenants for May.

The landlord submitted that the written tenancy agreement provides that the tenant will pay \$25 for late payments of rent and \$25 for returned rent cheques. The landlord said that the total amount for these fees is \$250, due to the tenant's payment history, as shown by the tenant ledger sheet filed into evidence.

The landlord requested to increase her monetary claim by \$2,450 for the loss of rent revenue for May 2020, as this loss was incurred after filing the application for dispute resolution.

The landlord said that they have received three payments of \$300 each, as a government-issued rent supplement.

The landlord confirmed their total monetary claim is now as follows:

ITEM DESCRIPTION	AMOUNT CLAIMED
1. Unpaid rent, April '20	\$2,450
2. Unpaid or loss of rent for May '20	\$2,450
3. Late fees and NSF fees	\$250
4. Filing fee	\$100
5. Rent supplements received	-\$900
6. Security deposit held	-\$1,225
<b>TOTAL CLAIMED</b>	<b>\$3,125</b>

### Analysis

After reviewing the relevant evidence, I provide the following findings, based upon a balance of probabilities:

As the tenant failed to attend the hearing despite being properly served, I consider this application to be unopposed.

Under section 26 of the Act, a tenant is required to pay rent in accordance with the terms of the tenancy agreement, whether or not the landlord complies with the Act, the Regulations or the tenancy agreement and is not permitted to withhold rent without the legal right to do so.

Under section 45(1) of the Act, a tenant may end a month-to-month tenancy by giving the landlord notice to end the tenancy effective on a date that is at least one clear calendar month before the next rent payment is due and is the day before the day of the month that rent is payable.

In the case before me, the undisputed evidence was the tenant owed, but did not pay, the monthly rent for April 2020. I find the landlord has established a monetary claim of \$2,450.

Under the Rules, a landlord may amend their application at the hearing in circumstances that can be reasonably anticipated, such as when the amount of rent owing has increased since the time the application for dispute resolution was made.

I therefore allowed the landlord to increase their monetary claim by \$2,450, as the tenant remained in the rental unit at least on May 1, 2020.

The undisputed evidence is that the tenant failed to provide his notice to vacate one clear calendar month prior to vacating and, as a result, I find the tenant failed to comply with his obligation under the Act.

I find the landlord has established a monetary claim of \$2,450 for loss of rent for May 2020.

I also find the undisputed evidence is that the tenant, during the course of the tenancy, made late payments of rent and the rent cheques were returned due to non-sufficient funds. Under the written tenancy agreement, the tenant agreed to pay a \$25 fee for each occurrence. I find the landlord has established a monetary claim of \$250.

The landlord applied to keep the tenant's security deposit. I allow the landlord to retain the security deposit in partial satisfaction of the monetary claim.

I grant the landlord recovery of their filing fee of \$100, due to their successful application and pursuant to section 72(1) of the Act.

I award the landlord a monetary award of \$3,125 as described on the table contained on page 3 of this Decision.

### Conclusion

I issue the landlord a monetary order of \$3,125.

Should the tenant fail to pay the landlord this amount without delay after being served the order, the monetary order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an Order of that Court. The tenant is advised that costs of such enforcement are subject to recovery from 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*.

Dated: September 2, 2020