



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNRL-S, OPU, FFL

### 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 pursuant to section 67;
- authorization to retain all or a portion of the tenants' security deposit (the deposit) in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover his filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I waited until 9:40 a.m. in order to enable them to connect with this teleconference hearing scheduled for 9:30 a.m. The landlord attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord entered written evidence and sworn testimony that he personally served the 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) on July 17, 2020 in the presence of a witness. I am satisfied that the landlord served this Notice to the tenant in accordance with section 88 of the *Act*.

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 August 29, 2020. The landlord entered into written evidence copies of the Canada Post Tracking Numbers. In accordance with sections 89 and 90 of the *Act*, I am satisfied that the tenant was deemed served with the landlord's dispute resolution hearing package on September 3, 2020.

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 November 30, 2019. The tenant paid a security deposit of \$500.00 which the landlord still holds. Rent in the amount of \$1000.00 is payable in advance on the first day of each month. The tenant failed to pay rent in the month(s) of December 2019- March 2020 inclusive. The landlord served the tenant with a notice to end tenancy on July 17, 2020. The landlord advised that the tenant still resides in the unit and has not paid any rent since moving in. The landlord advised that he is seeking the unpaid rent for the amount prior to the COVID- 19 pandemic and an order of possession. The landlord also requests a monetary order of \$4000.00 plus the \$100.00 filing fee.

Analysis

The tenant failed to pay their rent in full within five days of being deemed to have received the 10 Day Notice. The tenant has not made application pursuant to section 46(4) of the *Act* within five days of being deemed to have received the 10 Day Notice. In accordance with section 46(5) of the *Act*, the tenants' failure to take either of these actions within five days led to the end of their tenancy on the corrected effective date of the notice.

In this case, this required the tenants to vacate the premises by July 27, 2020. As that has not occurred, I find that the landlord is entitled to a 2-day Order of Possession. The landlord is granted an Order of Possession pursuant to Section 55 of the *Act*, which must be served on the tenant(s). If the tenant does not vacate the rental unit within the 2 days required, the landlord may enforce this Order in the Supreme Court of British Columbia.

Based on the undisputed evidence provided by the landlord, I am satisfied that the tenants continue to owe the landlord unpaid rent for December 2019 – March 2020 in the amount of \$4000.00. The landlord is entitled to the recovery of the filing fee as well

for a total award of \$4100.00. Using the offsetting provision under Section 72 of the Act, I hereby apply the security deposit against the amount of unpaid rent.

Conclusion

The landlord is granted an order of possession, the tenancy is terminated.

The landlord has established a claim for \$4100.00. I order that the landlord retain the deposit of \$500.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$3600.00. This order may be filed in the Small Claims 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: October 13, 2020

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Residential Tenancy Branch