



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, OPC, OPN, MNRL, FFL

### Introduction

This hearing convened as a result of a Landlord's Application for Dispute Resolution, filed on December 11, 2020, wherein the Landlord sought the following relief:

- an Order of Possession based on a 10 Day Notice to End Tenancy for Unpaid Rent issued on December 1, 2020 (the "10 Day Notice");
- an Order of Possession based on a 1 Month Notice to End Tenancy for Cause;
- an Order of Possession based on a Tenant's Notice to End Tenancy signed November 1, 2020 (the "Tenant's Notice");
- monetary compensation for unpaid rent; and,
- recovery of the filing fee.

Only the Landlord called into the hearing. He gave affirmed testimony and was provided the opportunity to present his evidence orally and in written and documentary form, and to make submissions to me.

The Tenant did not call into this hearing, although I left the teleconference hearing connection open until 11:38 a.m. Additionally, 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.

As the Tenant did not call in, I considered service of the Landlord's hearing package. The Landlord testified that he served the Tenant with the Notice of Hearing, the Application and all evidence in support of his claim on February 2, 2021. A copy of the Proof of Service was provided in evidence and which indicate that the "Eviction Notice" had been served. The Landlord noted that he wrote "Eviction Notice" as this was a

summary of all documents which had been delivered to the Tenant pursuant to his request to evict the Tenant. He also testified that brought his former co-worker, A.B., to witness the service on the Tenant. He further confirmed that on this date, the bylaw officer from the city was also present. I accept the Landlord's testimony and documentary evidence in this regard and find the Tenant was duly served with Notice of this hearing on February 2, 2021. I therefore proceeded with the hearing in his absence.

I have reviewed all oral and written evidence before me that met the requirements of the *Residential Tenancy Rules of Procedure*. However, not all details of the Landlord's submissions and or arguments are reproduced here; further, only the evidence specifically referenced by the Landlord and relevant to the issues and findings in this matter are described in this Decision.

#### Issues to be Decided

1. Is the Landlord entitled to an Order of Possession?
2. Is the Landlord entitled to monetary compensation from the Tenant?
3. Should the Landlord recover the filing fee?

#### Background and Evidence

The Landlord testified that monthly rent is \$2,000.00. The Tenant also paid a \$1,000.00 security deposit.

On November 1, 2020 the Tenant gave written notice to end his tenancy effective November 30, 2020. A copy of the Tenant's Notice was provided in evidence before me. Despite this assurance, the Tenant failed to vacate the rental unit.

On December 1, 2020 the Landlord served the 10 Day Notice on the Tenant. The Tenant failed to pay the outstanding rent and failed to dispute the Notice within five days of service of the 10 Day Notice.

The Landlord testified that the Tenant has not paid rent since November 2020 such that the sum of \$10,000.00 was owing for November, December 2020, as well as January, February and March 2021.

The Landlord also sought monetary compensation for the cost of fines levied by the City due to the condition of the rental unit and in particular the Tenant storing numerous vehicles on the property. A copy of a fine for \$175.00 was provided in evidence before me.

The Landlord also sought \$300.00 for the cost to remove items from the property. He did not submit any proof of payment in evidence before me.

### Analysis

Based on the documentary evidence, the undisputed testimony of the Landlord, and on the balance of probabilities, I find the following.

A tenancy may only be ended in accordance with the *Act*. Pursuant to sections 44(1)(a)(i) and 45 of the *Act* a tenant may end their tenancy by providing written notice to the landlord. I find that the Tenant gave notice to end his tenancy effective November 30, 2020. The Tenant may not unilaterally withdraw a notice to end tenancy. I accept the Landlord's testimony that he did not agree to the Tenant remaining in the rental property beyond the effective date of the Tenant's Notice. I therefore find the tenancy ended on November 30, 2020.

The Landlord is entitled to an Order of Possession based on the Tenant's Notice. This notice shall be effective two days after service on the Tenant. Should the Tenant fail to vacate the rental unit as ordered, the Landlord may file and enforce the Order in the B.C. Supreme Court.

Pursuant to section 26 of the *Act*, a tenant must pay rent when it is due in accordance with the tenancy agreement. I find the Tenant was obligated to pay rent in the amount of \$2,000.00 per month. I further find the Tenant breached section 26 of the *Act* by failing to pay rent for November and December 2020 as well as January, February and March 2021. I find the Landlord has met the burden of proof and is entitled to monetary compensation from the Tenant for unpaid rent in the amount of **\$10,000.00**.

I accept the Landlord's evidence that he was fined \$175.00 from the City due to the Tenant storing excess vehicles on the property. This amount is also recoverable from the Tenant. I therefore award the Landlord related compensation.

As the Landlord has been successful in this Application, I award him recover of the **\$100.00** filing fee pursuant to section 72 of the *Act*.

The Landlord is entitled to monetary compensation in the amount of **\$10,275.00** for the following:

Unpaid rent for November 2020	\$2,000.00
Unpaid rent for December 2020	\$2,000.00
Unpaid rent for January 2021	\$2,000.00
Unpaid rent for February 2021	\$2,000.00
Unpaid rent for March 2021	\$2,000.00
fine	\$175.00
Filing fee	\$100.00
<b>TOTAL AWARDED</b>	<b>\$10,275.00</b>

I find this claim meets the criteria under section 72(2)(b) of the *Act* to be offset against the Tenant's security deposit, which the Landlord continues to hold, in the amount of \$1,000.00. I therefore authorize the Landlord to retain the Tenant's full security deposit of \$1,000.00 in partial satisfaction of the Landlord's monetary claim, and I grant the Landlord a monetary Order pursuant to section 67 of the *Act* for the balance owing by the Tenant to the Landlord in the amount of **\$9,275.00**.

### Conclusion

The Tenant gave notice to end their tenancy effective November 30, 2020. The Landlord is entitled to an Order of Possession pursuant to section 55 of the *Act*. The Order of Possession shall be effective 2 days after service on the Tenant. This Order must be served on the Tenant and may be filed and enforced in the B.C. Supreme Court. The Tenant is cautioned that any costs incurred by the Landlord to enforce the Order of Possession are recoverable from the Tenant.

The Landlord is entitled to monetary compensation in the amount of **\$10,275.00** for unpaid rent, a fine from the City, and recovery of the filing fee.

The Landlord is authorized to retain the Tenant's full security deposit of \$1,000.00 in partial satisfaction of the claim and is granted a Monetary Order under section 67 for the balance due of **\$9,275.00**. This Order must be served on the Tenant and may be filed in the Provincial Court (Small Claims) and enforced as an Order of that court.

This decision is final and binding on the parties, unless otherwise provided under the Act, and is made on authority delegated to me by the Director of the Residential Tenancy Branch.

Dated: March 16, 2021

---

Residential Tenancy Branch