



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding MAINSTREET EQUITY CORP.  
and [tenant name suppressed to protect privacy]

## **DECISION**

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

**OPC, MNDL-S, MNRL-S, MNDCL-S, FFL**

### **Introduction**

This hearing dealt with two applications filed by the landlord pursuant the *Residential Tenancy Act* (the “Act”) for:

- An order of possession for unpaid rent pursuant to sections 46 and 55;
  - A monetary order for unpaid rent and authorization to withhold a security deposit pursuant to sections 67 and 38;
  - A monetary order for damages caused by the tenant, their guests to the unit, site or property and authorization to withhold a security deposit pursuant to sections 67 and 38; and
  - Authorization to recover the filing fee from the other party pursuant to section 72.
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- An order of possession for cause pursuant to sections 47 and 55;
  - A monetary order for damages caused by the tenant, their guests to the unit, site or property and authorization to withhold a security deposit pursuant to sections 67 and 38
  - A monetary order for unpaid rent and authorization to withhold a security deposit pursuant to sections 67 and 38;
  - An order to be compensated for a monetary loss or other money owed and authorization to withhold a security deposit pursuant to sections 67 and 38; and
  - Authorization to recover the filing fee from the other party pursuant to section 72.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 11:30 a.m. to enable the tenant to call into this teleconference hearing scheduled for 11:00 a.m. 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.

The landlord attended the hearing, represented by area manager BP and property manager YB ("landlord"). The landlord testified that they sent the tenant a Notice of Dispute Resolution Proceedings for each of their applications by registered mail. The first Notice of Dispute Resolution Proceedings, seeking an Order of Possession for unpaid rent was sent on April 29, 2022. The second Notice of Dispute Resolution Proceedings, seeking an Order of Possession for cause was sent on May 16, 2022. The tracking numbers for the mailings are provided on the cover page of this decision. I deem each Notice of Dispute Resolution Proceedings effectively served upon the tenant five days after mailing pursuant to sections 89 and 90 of the *Act*.

The landlord testified that she personally served the tenant with an evidence package on July 16, 2022. I deem it served on that day pursuant to sections 88 and 90 of the *Act*.

#### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to an order for compensation?

Can the landlord recover the filing fee?

#### Background and Evidence

The landlord gave the following undisputed evidence. They had once sought an Order of Possession by direct request but were denied by the adjudicator because the address shown on the tenancy agreement differed from the one noted on their application by direct request. The file number for the previous application was not known by the landlord at the time of this hearing.

The landlord testified that the current landlord purchased the property from a previous landlord who had originally provided the wrong address on the tenancy agreement. After their application by direct request was denied, the landlord made an amendment to the tenancy agreement to reflect the proper address, but the tenant refused to initial it, or acknowledge the correction. The landlord points to the multiple notices of rent increase served to the tenant that were not disputed and the two notices to end tenancy that show the correct address as proof of the address of the rental unit in question.

The landlord testified that the tenancy began on August 1, 2015, with rent set at \$600.00 per month, payable on the first day of each month. A security deposit of

\$300.00 is currently being held by the landlord. Rent is currently \$692.71 after multiple rent increases and each rent increase form was provided as evidence by the landlord.

On February 17, 2022, the landlord served the tenant with a 1 Month Notice to End Tenancy for Cause by posting a copy of it to the tenant's door. A witnessed, signed proof of service document was filed. The landlord testified that the tenant didn't file an application to dispute this notice, or that they are not aware of any such filing.

The tenant paid rent for the month of February but didn't pay his rent for March 1<sup>st</sup>. On March 4, 2022, the landlord served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent/Utilities by posting a copy to the tenant's door. A witnessed, signed proof of service document was filed. The landlord testified that the tenant never paid the outstanding rent for March within 5 days of receiving the notice to end tenancy, and the tenant didn't file an application to dispute it. The tenant has not paid any rent for April, May, June, July or August and the landlord seeks to recover rent for those months as well.

The landlord testified that the tenant was paying his rent via pre-authorized payments up until the date he stopped paying. For the months of February, March and April, each of the payments were refused by the tenant's bank due to insufficient funds. The landlord's bank charged them 3 NSF fees of \$25.00 each and the landlord seeks repayment from the tenant for those fees.

On January 24, 2022, the tenant's toilet backed up, due to the tenant clogging it and the landlord seeks to recover \$125.00 for the call. On February 12, 2022, the tenant locked himself out of his unit, due to the tenant forgetting the pass code. The landlord had the tenant's e-lock key examined and programmed a new code in for the tenant. The landlord seeks to recover \$125.00 for the maintenance call.

### Analysis

First, dealing with the discrepancy on the tenancy agreement. Based on the undisputed testimony of the landlord, I find that the previous landlord made a typographical error on the tenancy agreement which the current landlord sought to remedy after being denied an Order of Possession by direct request. I have reviewed the notices of rent increase served to the tenant, as well as both the notices to end tenancy and pursuant to section 62(2) of the *Act*, I find that the rental unit is the one stated on the landlord's applications and on the cover page of this decision.

The tenant is deemed served with the landlord's 10 Day Notice to End Tenancy for Unpaid Rent/Utilities on March 9, 2022, five days after March 4<sup>th</sup>, the day a copy was posted to the tenant's door. Likewise, the landlord's 1 Month Notice to End Tenancy for Cause is deemed served 5 days after posting to the door, on February 22, 2022.

Pursuant to section 47(4), the tenant had 10 days to dispute the 1 Month Notice to End Tenancy for Cause and pursuant to section 46(4) the landlord had 5 days to dispute the landlord's 10 Day Notice to End Tenancy for Unpaid Rent/Utilities. There is no evidence before me to indicate the tenant filed an application to dispute either notice to end tenancy.

Pursuant to section 55(4), if a notice to end the tenancy has been given by the landlord, the tenant has not disputed the notice by making an application for dispute resolution and the time for making that application has expired, the director may grant an order of possession before or after the date when a tenant is required to vacate a rental unit, and the order takes effect on the date specified in the order. In order to be effective, the landlord's notice to end tenancy must comply with the form and content provisions as set out in section 52. I have reviewed both notices to end tenancy and find them compliant with section 52. As the effective date on both notices has passed, I grant the landlord an Order of Possession effective two days after service upon the tenant.

Based on the landlord's undisputed testimony and the evidence provided, I find the tenant was obligated to pay rent in the amount of \$692.71 on the first of each month and failed to do so. Pursuant to section 55(4)(b), the landlord's application seeking payment of rent is granted. I order the tenant to pay rent from March 1, 2022, to the date of today's hearing. March to July [ $\$692.71 \times 5 = \$3,463.55$ ] + August's rent is prorated as [ $\$692.71 / 31 \times 15 \text{ (days)} = \$335.18$ ].

The tenant did not attend this hearing to dispute the landlord's claim for maintenance calls for the clogged toilet and forgotten passcode. I am satisfied the landlord incurred costs to attend to the tenant's clogging of the toilet and resetting of the passcode and I find the costs associated to do these tasks reasonable at \$125.00 each. I award the landlord the **\$250.00** as sought pursuant to section 67 of the *Act*.

I find the fee charged by the landlord's bank to cover the administrative cost of reversing the pre-authorized payments of rent for February, March and April to be in line with section 7 of the regulations. For each occurrence of NSF, the tenant accrued a \$25.00 administrative fee and I grant the landlord an additional amount of **\$75.00** for those fees pursuant to section 7 of the regulation.

As the landlord's application was successful, the landlord is also entitled to recovery of the **\$100.00** filing fee for the cost of this application. It was unnecessary to file two applications, since the first application could have been amended to add additional relief. As such, only a single filing fee will be recovered.

The landlord continues to hold the tenant's security deposit. In accordance with the offsetting provisions of section 72, the landlord may retain the tenant's **(\$300.00)** security deposit in partial satisfaction of the monetary order.

<b>Item</b>	<b>amount</b>
March 1 to July 31 rent	\$3,463.55
August 1 to August 15, 2022 rent	\$335.18
Maintenance charges	\$250.00
NSF fees	\$75.00
Filing fee	\$100.00
Less security deposit	(\$300.00)
<b>TOTAL</b>	<b>\$3,923.73</b>

### Conclusion

I grant an Order of Possession to the landlord effective 2 days after service on the tenant. Should the tenants or anyone on the premises fail to comply with this Order, this Order may be filed and enforced in the Supreme Court of British Columbia.

I award the landlord a monetary order in the amount of \$3,923.73.

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: August 15, 2022

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Residential Tenancy Branch