



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Quadra Pacific Properties Corp.  
and [tenant name suppressed to protect privacy]

## **DECISION**

### Dispute Codes:

OPR, MNR, MNSD, MNDC, FF

### Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord has made application for an Order of Possession for Unpaid Rent, a monetary Order for unpaid rent, a monetary Order for money owed or compensation for damage or loss; to retain all or part of the security deposit, and to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution. At the hearing the Agent for the Landlord withdrew the application for an Order of Possession, as the unit has been vacated.

The Agent for the Landlord stated that the Application for Dispute Resolution, the Notice of Hearing, and an evidence package were sent to the Tenant at the rental unit, via registered mail, on January 25, 2013. The Landlord submitted Canada Post documentation that corroborates this statement. In the absence of evidence to the contrary, I find that these documents have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*, however the Tenant did not appear at the hearing.

### Issue(s) to be Decided

Is the Landlord is entitled to a monetary Order for unpaid rent and other fees; to keep all or part of the security deposit; and to recover the filing fee from the Tenant for the cost of the Application for Dispute Resolution, pursuant to sections 38, 55, 67, and 72 of the *Residential Tenancy Act (Act)*?

### Background and Evidence

The Agent for the Landlord stated that this tenancy began on July 12, 2012; that the Tenant is required to pay monthly rent of \$945.00 and a parking fee of \$15.00 by the first day of each month; and that the Tenant paid a security deposit of \$472.50. The tenancy agreement submitted in evidence corroborates this testimony.

The Agent for the Landlord stated that the Tenant was provided with written notice that the parking fee would increase to \$20.00 on January 01, 2013.

The Agent for the Landlord stated that the Tenant did not pay the rent or parking fees for January of 2013. She stated that a stop payment order had been placed on the rent cheque the Tenant tendered for payment for January.

The Agent for the Landlord stated that a Ten Day Notice to End Tenancy for Unpaid Rent was posted on the door of the rental unit on January 16, 2013 and that the Tenant vacated the unit on January 31, 2013 or February 01, 2013.

The Agent for the Landlord is seeking compensation for a NSF of \$25.00 and a late payment fee of \$25.00, as set out by the tenancy agreement.

### Analysis

Based on the undisputed evidence, I find that the Tenant entered into a tenancy agreement with the Landlord that required the Tenant to pay monthly rent of \$945.00 and a parking fee of \$15.00 by the first day of each month, and that the Tenant did not pay the rent/fees that were due on January 01, 2013. As he is required to pay rent pursuant to section 26(1) of the *Act*, I find that the Tenant must pay \$960.00 in outstanding rent/parking to the Landlord.

As there is no evidence that the Tenant agreed to pay an increase fee for parking and the *Act* does not authorize a landlord to change a term in the tenancy agreement, with the exception of rent and a withdrawal/restriction of services, without the written consent of the Tenant, I find that the Landlord did not have the right to increase the parking fee to \$20.00. I therefore cannot award a parking fee of \$20.00 for January of 2013.

As the Tenant did not pay his rent when it was due and the tenancy agreement requires the Tenant to pay a fee of \$25.00 whenever rent is not paid when it is due, I find that the Landlord is entitled to a late fee of \$25.00 for the month of January of 2013.

The tenancy agreement indicates that the Tenant must pay a fee of \$25.00 when a cheque is returned due to insufficient funds. The evidence shows that the Tenant's rent cheque for January of 2013 was returned as a result of a stop payment order, not due to insufficient funds. As there is nothing in the tenancy agreement that requires the Tenant to pay a fee when he places a stop payment order on a cheque and there is no evidence the cheque was returned due to insufficient funds, I dismiss the Landlord's application for a \$25.00 NSF fee.

I find that the Landlord's application has merit and that the Landlord is entitled to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

### Conclusion

I find that the Landlord has established a monetary claim, in the amount of \$1,035.00, which is comprised of \$960.00 in unpaid rent/parking, a \$25.00 late fee, and \$50.00 in

compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution. The Landlord will be retaining the Tenant's security deposit, in the amount of \$472.50, in partial satisfaction of the monetary claim.

Based on these determinations I grant the Landlord a monetary Order for the balance of \$562.50. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia 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: February 20, 2013

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Residential Tenancy Branch

