



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR MNR MNSD MNDC FF

### Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim. The landlord and the tenant participated in the teleconference hearing.

Both parties were given full opportunity to give affirmed testimony. I have reviewed all testimony and other evidence. However, in this decision I only describe the evidence relevant to the issues and findings in this matter.

### Preliminary Issue – Service of Amended Application

The landlord submitted their original application on June 24, 2015, requesting monetary compensation and an order of possession pursuant to a notice to end tenancy for unpaid rent served on the tenant on June 16, 2015. The tenant acknowledged receiving the June 16, 2015 notice and the landlord's original application.

On July 24, 2015 the landlord submitted an amended application, requesting monetary compensation and an order of possession pursuant to a second notice to end tenancy for unpaid rent. The tenant denied receiving the amended application. The landlord stated that the amended application was sent to the tenant by registered mail, but as this was done by the landlord's agent, the landlord did not have the documentation for the registered mail. The landlord's agent did not call in to the hearing. As I could not verify service of the amended application, I therefore only considered the original application.

Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order?

Background and Evidence

The tenancy began on January 1, 2015. Rent in the amount of \$1,145.00 is payable in advance on the first day of each month. At the outset of the tenancy, the landlord collected a security deposit from the tenant in the amount of \$572.50.

On June 16, 2015 the landlord served the tenant with a notice to end tenancy for non-payment of rent. The landlord stated that on June 21, 2015 at 11:45 p.m., the tenant gave the landlord a cheque for the rent. The landlord stated that she took the cheque to the bank the next day, and the bank said they couldn't cash it. On June 22, 2015 the tenant texted the landlord to say she had put the rent in cash in the landlord's mailbox. The landlord stated that she told the tenant not to put the rent in the mailbox, to give it to the landlord personally. The landlord stated that the tenant did not pay rent for June, July or August 2015.

The tenant stated that on June 22, 2015 at around 9:30 p.m. she put the cash in an envelope into the landlord's mailbox. The tenant stated that she has a picture of the landlord's husband holding the envelope. The tenant later stated that on June 23, 2015 and for the next four days she checked the mailbox and saw only the empty envelope there.

Analysis

I have reviewed all evidence and I find that the tenant was served with the notice to end tenancy for unpaid rent on June 16, 2015, and she did not pay the full outstanding rent within the five days granted under section 46(4) of the Act. I find that the tenant is conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the notice. The landlord is therefore entitled to an order of possession.

As for the monetary order, I accept the landlord's evidence as more credible than that of the tenant. The tenant's version of events was contradictory and lacked supporting evidence. I find that the tenant did not pay rent for June, July or August 2015, and the landlord is entitled to \$3,435.00 in unpaid rent and lost revenue. As their application was successful, the landlord is also entitled to recovery of the \$50.00 filing fee.

Conclusion

I grant the landlord an order of possession effective two days from service. The tenant must be served with the order of possession. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

The landlord is entitled to \$3,485.00. I order that the landlord retain the security deposit of \$572.50 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$2,912.50. 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: August 21, 2015

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Residential Tenancy Branch

