



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNR, OPR, MNR, MDSD & FF

### Introduction

The Application for Dispute Resolution filed by the landlord makes the following claims:

- a. An Order for Possession for non-payment of rent
- b. A monetary order in the sum of \$5100 for unpaid rent and reimbursement of the cost of a strata fine paid by the landlord.
- c. An order to retain the security deposit
- d. An order to recover the cost of the filing fee

The Application for Dispute Resolution filed by the Tenant makes the following claims:

- a. An order to cancel the 10 day Notice to End Tenancy dated August 13, 2016
- b. An order that the tenant recover the cost of the filing fee

A hearing was conducted by conference call in the presence of the landlord and in the absence of the Tenant. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

I find that the 10 day Notice to End Tenancy was sufficiently served on the Tenant on by posting on August 13, 2016. Further I find that the Application for Dispute Resolution/Notice of Hearing was sufficiently served on the Tenant by mailing, by registered mail to where the Tenant resides on September 30, 2016. With respect to each of the applicant's claims I find as follows:

### Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the tenant is entitled to an order cancelling the 10 day Notice to End Tenancy dated August 13, 2016?
- b. Whether the tenant is entitled to recover the cost of the filing fee?
- c. Whether the landlord is entitled to an Order for Possession?
- d. Whether the landlord is entitled to A Monetary Order and if so how much?

- e. Whether the landlord is entitled to retain all or a portion of the security deposit/pet deposit?
- f. Whether the landlord is entitled to recover the cost of the filing fee?

### Background and Evidence

The parties entered into a fixed term written tenancy agreement that provided that the tenancy would start on June 15, 2016, end on June 1, 2017 and become month to month after that. The rent is \$2300 per month payable in advance on the first day of each month. The tenant paid a security deposit of \$1150 at the start of the tenancy.

The tenant(s) failed to pay the rent for the months of October and the sum of \$2300 remains owing. The tenant(s) have remained in the rental unit. The landlord testified he is also claiming the sum of \$500 for the cost of a strata fine he had to pay because the Tenant used the rental unit as an airbnb.

### Tenant's Application:

The tenant failed to appear at the hearing. As a result I ordered that the application of the tenant to cancel the 10 day Notice to End Tenancy and to recover the cost of the filing fee be dismissed without liberty to re-apply.

The Residential Tenancy Act provides that where an arbitrator has dismissed a tenant's application to cancel a Notice to End Tenancy, the arbitrator must grant an Order for Possession. As a result I granted the landlord an Order for Possession.

### Analysis - Order of Possession:

I determined the landlord was entitled to an Order for Possession. There was outstanding rent at the time the tenant was served with the 10 day Notice to End Tenancy and there continues to be outstanding rent.. The landlord has not reinstated the tenancy. The Tenant's application to cancel the 10 day Notice to End Tenancy has been dismissed. The tenant has failed to pay the rent for October. Accordingly, I granted the landlord an Order for Possession on 2 days notice..

The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court of British Columbia for enforcement.

### Analysis - Monetary Order and Cost of Filing fee:

I determined the tenant has failed to pay the rent for the month(s) of October and the sum of \$2300 remains outstanding. I determined the landlord has given sufficient notice

of their intention to claim for all of last month as provided in the Application for Dispute Resolution. In addition I determined the landlord is entitled to the sum of \$500 for the cost of a strata fine the landlord has paid because the tenant has breached the strata rules and operated an airbnb. I granted the landlord a monetary order in the sum of \$2800 plus the sum of \$100 in respect of the filing fee for a total of \$2900.

Security Deposit:

I determined the security deposit plus interest totals the sum of 1150. I ordered the landlord may retain this sum thus reducing the amount outstanding under this monetary order to the sum of \$1750.

Conclusion:

I ordered that the tenant's application be dismissed. I granted an Order for Possession on 2 days notice. I determined the Tenant owes the landlord the sum of \$2900. I ordered that the landlord shall retain the security deposit of \$1150. In addition I ordered that the Tenant pay to the Landlord the sum of \$1750.

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial 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 17, 2016

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Residential Tenancy Branch