



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Vancouver Eviction Services  
and [tenant name suppressed to protect privacy]

## **DECISION**

### Dispute Codes:

**OPR, MNR, MNSD, FF**

### Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has requested an order of possession for unpaid rent, a monetary order for unpaid rent, to retain the security deposit and to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

The agent for the landlord provided affirmed testimony that on September 22, 2017 copies of the Application for Dispute Resolution and Notice of Hearing were sent to the tenant via registered mail to the address noted on the application. A Canada Post tracking number was provided as evidence of service. The landlord stated the tenant has yet to retrieve the mail. The tenant remained in the rental unit until late October 2017.

I find that these documents are deemed to have been served on the fifth day after mailing, in accordance with section 89 and 90 of the Act; however the tenant did not appear at the hearing.

### Preliminary Matters

The landlord stated that the tenant vacated the rental unit on the weekend of October 28 – 29, 2017. An order of possession is not required.

### Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent and loss of rent revenue?

May the landlord retain the security deposit paid by the tenant?

### Background and Evidence

The tenancy commenced on December 1, 2016, rent was \$1,200.00 due on the first day of each month. The landlord is holding a security deposit in the sum of \$600.00. A copy of the tenancy agreement was supplied as evidence.

The landlord stated that on September 5, 2017 a 10 day Notice ending tenancy for unpaid rent or utilities, which had an effective date of September 15, 2017 was served to the tenant by posting the Notice to the door. The tenant immediately came to the door and spoke with the landlord.

The Notice indicated that the Notice would be automatically cancelled if the landlord received \$1,200.00 within five days after the tenant was assumed to have received the Notice. The Notice also indicated that the tenant was presumed to have accepted that the tenancy was ending and that the tenant must move out of the rental by the date set out in the Notice unless the tenant filed an Application for Dispute Resolution within five days.

The landlord supplied a copy of a receipt issued for use and occupancy in the sum of \$600.00, paid on September 7, 2017. No rent has been paid since that time.

The tenant vacated the rental unit on October 27 or 28, 2017.

The landlord is claiming the balance of September 2017 rent (\$600.00) plus loss of October and November 2017 rent revenue (\$2,400.00.) The landlord said that the unit was damaged and not rented out in November. The landlord may submit a future claim for damage to the unit.

### Analysis

I find that the tenant received the Notice to end tenancy on September 5, 2017, the date the Notice was posted and the tenant spoke to the landlord about the Notice.

Section 46(1) of the Act stipulates that a 10 day Notice ending tenancy is effective 10 days after the date that the tenant receives the Notice. As the tenant received this Notice on September 5, 2017, I find that the earliest effective date of the Notice is September 15, 2017.

In the absence of evidence to the contrary, I find that the tenant was served with a Notice ending tenancy that required the tenant to vacate the rental unit on September 15, 2017, pursuant to section 46 of the Act.

Section 46 of the Act stipulates that a tenant has five days from the date of receiving the Notice ending tenancy to either pay the outstanding rent or to file an Application for Dispute Resolution to dispute the Notice. The tenant paid \$600.00 on September 5,

2017 and no further rent was paid. I have no evidence that the tenant disputed the Notice. Therefore, pursuant to section 46(5) of the Act, I find that the tenant accepted that the tenancy has ended on the effective date of the Notice; September 15, 2017.

In the absence of evidence to the contrary, I find that the tenant has not paid rent and per diem rent and loss of rent revenue in the amount of \$1,800.00 for September and October, 2017 and that the landlord is entitled to compensation in that amount. A tenant must pay rent for each day the tenant occupies the rental unit.

As the tenant was served with notice of this hearing and failed to attend to oppose the claim I find that the landlord is entitled to compensation in the sum of \$1,200.00 for loss of November 2017 rent revenue.

As the landlords' claim has merit I find, pursuant to section 72 of the Act that the landlord is entitled to recover the \$100.00 filing fee from the tenant for the cost of this Application for Dispute Resolution.

Pursuant to section 72 of the Act, I find that the landlord is entitled to retain the \$600.00 security deposit in partial satisfaction of the claim.

Based on these determinations I grant the landlord a monetary order for the balance of \$2,500.00. 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.

### Conclusion

The landlord is entitled to a monetary order for unpaid rent and per diem rent and loss of rent revenue.

The landlord may retain the security deposit.

The landlord is entitled to filing fee costs.

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 under Section 9.1(1) of the *Residential Tenancy*

Dated: December 06, 2017

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Residential Tenancy Branch