



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Dispute Codes OPR

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("the Act") for an Order of Possession for Unpaid Rent pursuant to section 55.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, and to make submissions. The landlord's daughter attended as his agent. Tenant YK attended representing all three tenants. Both parties confirmed receipt of the other's evidentiary submissions for this hearing.

### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent?

### Background and Evidence

This tenancy began on February 5, 2016. The parties signed a written tenancy agreement with a rental amount of \$2700.00 payable on the first of each month. The rent was reduced to \$2550.00 for a period ending August 2016. The landlord continues to hold a security deposit in the amount of \$1350.00 and a \$1350.00 pet damage deposit paid by the tenant at the outset of this tenancy.

The landlord testified that the tenants have been repeatedly late paying rent and that, in July 2016, they did not pay rent on the 1<sup>st</sup> of the month as required. The landlord testified that, after being unable to resolve the matter, she issued a 10 Day Notice to End Tenancy for Unpaid Rent ("10 Day Notice") on July 22, 2016 by posting it on the tenants' door. The tenant's representative confirmed receipt of the 10 Day Notice at this hearing.

The landlord has applied for an Order of Possession for unpaid rent for the month of July 2016. The landlord testified that the tenants did not pay rent of \$2550.00 due on July 1, 2016. The landlord testified and supplied documentary evidence to show that the tenants paid the outstanding July rent on August 2, 2016 when they also paid their August 2016 rent. Tenant YK agreed with this testimony.

Tenant YK testified that her co-tenant (Tenant JK) had been in a great deal of pain and that the two of them were distracted from ensuring the rental amount was covered by their bank. Tenant YK

testified that her other co-tenant (Tenant NK) was the person informed by the landlord about the unpaid rent but that she currently resides in Victoria. Tenant YK testified that she was under the misapprehension that she had a 10 day period in which to pay her July 2016 rent after receipt of the landlord's Notice to End Tenancy.

### Analysis

Section 26(1) of the Act establishes that "a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent." The tenants have not submitted that they had a right to deduct the rent. The tenants have not disputed that they failed to pay the rent in accordance with the Act. Tenant YK submitted at this hearing that she simply made a mistake by not making timely attempts to address a non-payment of rent.

Payment of rent in full and on time is an integral part of the residential tenancy agreement. The exchange of rent for accommodation is the foundation of the agreement. The tenants' reasons for non-payment do not influence the factors in determining whether a tenancy should end as a result of failure to pay rent.

The tenants failed to pay the July 2016 rent within five days of receiving the 10 Day Notice to End Tenancy. The tenants did not make an application disputing the notice pursuant to section 46(4) of the Act within five days of receiving the 10 Day Notice. In accordance with section 46(5) of the Act, the tenants' failure to take either of these actions within five days led to the end of his tenancy on the corrected effective date of the notice. In this case, this required the tenants to vacate the premises by August 5, 2016. As that has not occurred, I find that the landlord is entitled to a 2 day Order of Possession.

### Conclusion

I am granting the landlord an Order of Possession to be effective two days after notice is served to the tenant. If the tenant does not vacate the rental unit within the 2 days required, the landlord may enforce this Order in the Supreme Court of British Columbia.

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 3, 2016

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Residential Tenancy Branch