



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Dispute Codes:

OPC, OPR, MNR, FF

### Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for an Order of Possession for Cause, an Order of Possession for Unpaid Rent, a monetary Order for unpaid rent, and to recover the fee for filing this Application for Dispute Resolution.

The Manager stated that on August 12, 2016 the Application for Dispute Resolution and the Notice of Hearing were personally served to the Tenant. 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.

The female Landlord stated that no evidence in regards to this Application for Dispute Resolution was submitted to the Residential Tenancy Branch.

### Preliminary Matter

The male Landlord applied to amend the Application for Dispute Resolution to include unpaid rent from September and October of 2016. I find that it was reasonable for the Tenant to include that the Landlord is seeking to recover all of the rent that is currently due, including unpaid rent that has accrued since the Application for Dispute Resolution was filed. I therefore grant the application to amend the monetary claim to include all rent that is currently due.

### Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession and/or to a monetary Order for unpaid rent?

### Background and Evidence

The male Landlord stated that:

- this tenancy began prior to the Landlords purchasing the property in January of 2015;
- the Tenant agreed to pay monthly rent of \$800.00 by the first day of each month;
- the Tenant is currently living in the rental unit, although she has declared that she is vacating today;
- the Tenant still owes \$500.00 in rent from April of 2016; and
- the Tenant did not pay any rent for May, June, July, August, September, or October of 2016.

The Manager stated that:

- on July 10, 2016 he personally served the Tenant with a Ten Day Notice to End Tenancy for Unpaid Rent; and
- on August 01, 2016 he personally served the Tenant with a One Month Notice to End Tenancy for Unpaid Rent.

The male Landlord stated that the Landlords did not retain a copy of either of the above Notices to End Tenancy.

### Analysis

On the basis of 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 \$800.00 by the first day of each month; that the Tenant still owes \$500.00 in rent from April of 2016; and that the Tenant has not paid rent for May, June, July, August, September, or October of 2016.

The Tenant is required to pay rent when it is due, pursuant to section 26(1) of the *Act*, for the period in which the Tenant has occupied the rental unit. As the Tenant is still occupying the rental unit I find that the Tenant must pay \$5,300.00 in outstanding rent to the Landlord.

Section 46 of the *Act* authorizes landlords to end a tenancy if rent is not paid by serving a tenant with a Ten Day Notice to End Tenancy for Unpaid Rent. On the basis of the undisputed evidence I find that the Tenant was served with a Ten Day Notice to End Tenancy for Unpaid Rent on July 10, 2016.

Section 47 of the *Act* authorizes landlords to end a tenancy for a variety of reasons by serving a tenant with a One Month Notice to End Tenancy for Cause. On the basis of the undisputed evidence I find that the Tenant was served with a One Month Notice to End Tenancy for Cause on August 01, 2016.

Sections 46(2) and 47(3) of the *Act* stipulate that to be effective a notice to end tenancy must comply with section 52 of the *Act*. Section 52 of the *Act* stipulates that in order to be effective, a notice to end a tenancy must be in writing and must

- be signed and dated by the landlord or tenant giving the notice,
- give the address of the rental unit,
- state the effective date of the notice,
- except for a notice under sections 45(1) and 45(2) of the *Act*, state the grounds for ending the tenancy, and
- when given by a landlord, be in the approved form.

As the Landlords did not provide a copy of either Notice to End Tenancy that is the subject of these proceedings, I am unable to determine whether either Notice to End Tenancy complied with section 52 of the *Act*. As I am unable to confirm determine whether either Notice to End Tenancy complied with section 52 of the *Act*, I am unable to determine whether either Notice to End Tenancy was an effective notice. As I am unable to determine whether either Notice to End Tenancy was an effective notice, I am unable to enforce the Notices to End Tenancy that were served. I therefore dismiss the Landlords' application for an Order of Possession on the basis of those Notices.

I find that the Landlords' Application for Dispute Resolution has merit and that the Landlords are entitled to recover the fee for filing this Application for Dispute Resolution.

### Conclusion

The Landlords' application for an Order of Possession is dismissed.

The Landlords have established a monetary claim, in the amount of \$5,400.00, which includes \$5,300.00 in unpaid rent and \$100.00 in compensation for the fee paid to file this Application for Dispute Resolution. Based on these determinations I grant the Landlords a monetary Order for \$5,400.00. In the event 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: October 05, 2016

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Residential Tenancy Branch

