



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding COMMUNITY BUILDERS  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for:

- an Order of Possession for unpaid rent, pursuant to section 55.

The tenant did not attend this hearing, which lasted approximately 13 minutes. The landlord's agent, EB ("landlord") attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord confirmed that she was the building coordinator and tenant support for the "landlord company" named in this application and that she had authority to represent it at this hearing.

The landlord testified that the tenant was personally served with the landlord's application for dispute resolution hearing package on September 19, 2016, by one of the landlord's agents. In accordance with section 89 of the *Act*, I find that the tenant was served with the landlord's Application on September 19, 2016.

The landlord testified that she personally served the tenant with the landlord's written evidence package on October 26, 2016. In accordance with section 89 of the *Act*, I find that the tenant was served with the landlord's written evidence package on October 26, 2016.

The landlord testified that the tenant was served with the landlord's 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated September 6, 2016 ("10 Day Notice"), on the same date, by way of posting to the rental unit door. The landlord provided a signed, witness proof of service with this application, confirming the above information. In accordance with sections 88 and 90 of the *Act*, I find that the tenant was deemed served with the landlord's 10 Day Notice on September 9, 2016, three days after its posting.

### Issues to be Decided

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

### Background and Evidence

The landlord testified regarding the following facts. This tenancy began on January 1, 2016 for a fixed term of three months after which it transitioned to a month-to-month tenancy. Monthly rent in the amount of \$425.00 is payable on the first day of each month. A security deposit of \$212.50 was paid by the tenant and the landlord continues to retain this deposit. A written tenancy agreement was signed by both parties. The landlord explained that the tenant left town on November 4, 2016, but she is unsure if he will return to the rental unit. She maintained that the landlord has not taken back possession of the rental unit or changed the locks.

The landlord issued the 10 Day Notice, indicating an effective move-out date of September 15, 2016. The notice states that rent of \$425.00 was due on September 1, 2016. The landlord maintained that the tenant made a partial payment of \$225.00 for rent sometime in September 2016. A rent receipt, dated September 19, 2016, for “use and occupancy only” was provided for this hearing.

The landlord said that rent of \$200.00 was still outstanding for September 2016 and that rent of \$425.00 for each month from October to November 2016 was not paid.

### Analysis

The landlord provided undisputed evidence at this hearing, as the tenant did not attend. The tenant failed to pay the full rent due on September 1, 2016, within five days of being deemed to have received the 10 Day Notice. The tenant only made a partial payment. The tenant has not made an application pursuant to section 46(4) of the *Act* within five days of being deemed to have received the 10 Day Notice. In accordance with section 46(5) of the *Act*, the failure of the tenant to take either of the above actions within five days led to the end of this tenancy on September 19, 2016, the corrected effective date on the 10 Day Notice.

In this case, this required the tenant and anyone on the premises to vacate the premises by September 19, 2016. As this has not occurred, I find that the landlord is entitled to a two (2) day Order of Possession against the tenant, pursuant to section 55 of the *Act*. I find that the landlord’s 10 Day Notice complies with section 52 of the *Act*.

Conclusion

I grant an Order of Possession to the landlord effective **two (2) days after service on the tenant**. Should the tenant or anyone on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of 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: November 10, 2016

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Residential Tenancy Branch