



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, FF

### 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;
- a Monetary Order for unpaid rent pursuant to section 67; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, which lasted approximately 15 minutes. The 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 testified that a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "10 Day Notice"), was served on the tenant by registered mail on December 8, 2016. The landlord provided a Canada Post tracking number as evidence. 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 December 13, 2016, five days after mailing.

The landlord testified that the landlord's application for dispute resolution dated December 20, 2016 was sent to the tenant by registered mail on that same date. The landlord provided a Canada Post tracking number as evidence. In accordance with sections 89 and 90 of the *Act*, I find that the tenant was deemed served with the landlord's application on December 25, 2016, five days after its mailing.

At the outset of the hearing, the landlord made an application requesting to amend the monetary amount of the claim sought. The landlord indicated that since the application was filed the tenants have failed to pay the January rent amount and that the total arrears as of the date of the hearing is \$3,350.00. Pursuant to section 64(3)(c) of the

*Act* and Rule 4.2 of the Rules of Procedure I amend the landlord's Application to increase the landlord's monetary claim from \$1,675.00 to \$3,350.00.

Issue(s) to be Decided

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

Is the landlord entitled to monetary compensation as claimed?

Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

The landlord provided undisputed testimony regarding the following facts. This month-to-month tenancy began in September, 2016. The current rent is \$1,675.00 payable on the 1<sup>st</sup> of the month. No security deposit was paid by the tenant at the start of the tenancy. The tenant continues to reside in the rental unit at the time of the hearing.

The landlord testified that at the time the 10 Day Notice was issued the tenancy was in arrears by \$1,675.00, the amount initially sought in the 10 Day Notice. The landlord testified that the tenant has not paid the rent owed for the month of January and the total amount owing for the tenancy as of January 10, 2016, the date of the hearing, is \$3,350.00.

Analysis

The landlord provided undisputed evidence at this hearing, as the tenant did not attend. I find that the tenant was obligated to pay the monthly rent in the amount of \$1,675.00. I accept the evidence before me that the tenant failed to pay the full rent due within the 5 days of service granted under section 46(4) of the *Act* nor did the tenant dispute the 10 Day Notice within that 5 day period. Accordingly, I find that the tenant is conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy ended on the corrected effective date of the 10 Day Notice, December 21, 2016. Therefore, I find that the landlord is entitled to an Order of Possession, pursuant to section 55 of the *Act*.

I accept the landlord's undisputed evidence that the total amount of arrears for this tenancy is \$3,350.00. I issue a monetary award for unpaid rent of \$3,350.00 as at January 10, 2016, the date of the hearing, pursuant to section 67 of the *Act*.

As the landlord's application was successful, the landlord is also entitled to recovery of the \$100.00 filing fee for the cost of this application.

Conclusion

I grant an Order of Possession to the landlord effective **2 days after service on the tenants**. 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.

I issue a monetary order in the landlord's favour in the amount of \$3,450.00 under the following terms, which allows the landlord to recover unpaid rent for the months of December, and January, and the filing fee for their application:

Item	Amount
Unpaid Rent December	\$1,675.00
Unpaid Rent January	\$1,675.00
Filing Fees	\$100.00
<b>Total Monetary Order</b>	<b>\$3,450.00</b>

The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, this 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: January 10, 2017

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Residential Tenancy Branch