



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding FIRST UNITED CHURCH SOCIAL HOUSING SOCIETY  
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* (the "Act") for an Order of Possession for unpaid rent pursuant to section 55.

The tenant did not attend the hearing which lasted approximately 15 minutes. The landlord attended and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord testified that the landlord's 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "10 Day Notice") dated January 10, 2017 was served on the tenant by posting on the rental unit door on that date. I find that the 10 Day Notice was deemed served in accordance with sections 88 and 90 of the *Act* on January 13, 2017, three days after posting.

The landlord testified that the landlord's application for dispute resolution dated January 19, 2017 was served on the tenant by posting on the rental unit door on January 26, 2017. I find that the landlord's application and evidence were served on the tenant in accordance with sections 89 and 90 of the *Act* on January 29, 2017, three days after posting.

### Issue(s) to be Decided

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

### Background and Evidence

The landlord provided undisputed testimony regarding the following facts. This month-to-month tenancy began in March, 2016. The current monthly rent is \$915.00 payable on the first of the month. A security deposit of \$457.50 was collected from the tenant at the start of this tenancy and is still held by the landlord. 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 \$2,924.61. The landlord testified that the tenant proposed a payment plan to the landlord and made a partial payment of \$1,250.00 on January 19<sup>th</sup> and \$500.00 on February 10<sup>th</sup>. The

landlord testified that the payments were made by money order and were accepted for use and occupancy only. The two payments did not resolve the rental arrear and did not reinstate the tenancy. The landlord said the tenant was informed both in writing and orally that the landlord continues to intend to seek an order of possession. The payment plan proposed by the tenant was not followed by the tenant who failed to make a payment on January 27<sup>th</sup>. The landlord testified that the amount owing for the tenancy as of February 21, 2017, the date of the hearing is \$1,174.61.

### 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 \$915.00. I accept the landlord's evidence that the tenant failed to pay the full rent arrear 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. I accept the landlord's evidence that the tenant's payments were accepted for use and occupancy only, that fact was informed to the tenant and the tenancy was not reinstated. 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, January 23, 2017. Therefore, I find that the landlord is entitled to an Order of Possession, pursuant to section 55 of the *Act*.

### Conclusion

I grant an Order of Possession to the landlord effective **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: February 21, 2017

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Residential Tenancy Branch