



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR MNR

### Introduction

This hearing dealt with an application by the landlord for an order of possession and a monetary order for unpaid rent.

The landlord participated in the teleconference hearing, but the tenant did not call into the hearing. The landlord submitted evidence that they served the tenant with the application for dispute resolution and notice of hearing by registered mail sent on January 20, 2017. Section 90 of the Act states that a document is deemed to have been served five days after mailing. I found that the tenant was deemed served with notice of the hearing on January 25, 2017, and I proceeded with the hearing in the absence of the tenant.

### Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order?

### Background and Evidence

The landlord stated that the tenancy began one or two years ago. Rent in the amount of \$360.00 is payable in advance on the first day of each month. The landlord stated that the tenant was responsible for some damage in the kitchen, and he agreed to pay an additional \$100.00 per month for the repair costs.

The tenant failed to pay rent in the month of January 2017 and on January 6, 2017 the landlord served the tenant with a notice to end tenancy for non-payment of rent. The tenant paid no rent for January 2017, but paid February 2017 rent on or about February 5, 2017.

The Landlord's evidence included the following:

- a copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, issued on January 6, 2017, with an effective vacancy date of January 15, 2017, for failure to pay rent that was due on January 1, 2017;
- a photograph showing a witness standing at the tenant's door as the notice to end tenancy was posted on the door on January 6, 2017; and
- a copy of the Landlord's Application for Dispute Resolution, filed January 18, 2017.

### Analysis

I have reviewed all evidence and I accept that the tenant was served with the notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenant on January 9, 2017

I accept the evidence before me that the tenant has failed to pay the rent owed within the five days granted under section 46(4) of the Act. I find that the tenant is conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on January 19, 2017, the corrected effective date of the notice. The landlord is therefore entitled to an order of possession.

As for the monetary order, based on the above-noted evidence I find that the landlord has established a claim for \$360.00 in unpaid rent. The landlord did not provide evidence of the damage to the kitchen or an agreement from the tenant to pay the additional \$100.00 per month toward those repairs, and I therefore decline to include the \$100.00 payment that the landlord claimed for January 2017.

### Conclusion

I grant the landlord an order of possession effective two days from service. The tenant must be served with the order of possession. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

I grant the landlord an order under section 67 for the balance due of \$360.00. This order may be filed in the 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: February 15, 2017

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Residential Tenancy Branch