



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding NEIGHBOURHOOD HOUSING SOCIETY  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR MNR FF

### Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution, received at the Residential Tenancy Branch on January 10, 2017 (the "Application"). The Landlord applied for the following relief pursuant to the *Residential Tenancy Act* (the "Act"):

- an order of possession for unpaid rent or utilities;
- a monetary order for unpaid rent or utilities; and
- an order granting recovery of the filing fee.

The Landlord was represented at the hearing by K.F., who provided affirmed testimony. The Tenant did not attend the hearing.

On behalf of the Landlord, K.F. testified that the Landlord's Application package, including the Notice of a Dispute Resolution Hearing and documentary evidence, was served on the Tenant by registered mail on January 10, 2017. Pursuant to sections 89 and 90 of the *Act*, documents served in this manner are deemed to be received five days later. I find the Landlord's Application package is deemed to have been received by the Tenant on January 15, 2017.

The Landlord's agent was provided with the opportunity to present evidence orally and in written and documentary form, and to make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Preliminary and Procedural Matters

During the hearing, a discrepancy in the correct legal name of the Landlord was noted. With the agreement of K.F., the Landlord's agent, the Landlord's Application was amended to reflect the correct legal name of the Landlord, pursuant to section 64 of the *Act*.

### Issues to be Decided

1. Is the Landlord entitled to an order of possession for unpaid rent or utilities?
2. Is the Landlord entitled to a monetary order for unpaid rent or utilities?
3. Is the Landlord entitled to an order granting recovery of the filing fee?

### Background and Evidence

The Landlord testified the tenancy began on January 15, 2015. Although the Tenant's rent is subsidized, rent in the amount of \$210.00 per month is due from the Tenant directly on the first day of each month. The Landlord holds a security deposit of \$368.50.

The Landlord advised the Tenant has not paid rent when due on numerous occasions during the tenancy. Accordingly, the Landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated December 14, 2016, indicating that \$1,510.00 was outstanding at that time (the "10 Day Notice"). The 10 Day Notice was served on the Tenant on December 19, 2016, by posting a copy to the door of the Tenant's rental unit.

According to K.F., the Tenant has not made any further rent payments. Therefore, the current amount of rent owing is currently \$1,930.00 (\$1,510.00 + \$210.00 + \$210.00). The Tenant continues to occupy the rental unit.

### Analysis

Based on the affirmed oral testimony and documentary evidence, and on a balance of probabilities, I find:

Section 26 of the *Act* confirms that a tenant must pay rent when it is due unless the tenant has a right under the *Act* to deduct all or a portion of rent. When a tenant does not pay rent when due, section 46 of the *Act* permits a landlord to end the tenancy by issuing a notice to end tenancy. A tenant who receives a notice to end tenancy and

wishes to dispute it has five days to either pay rent or file an application for dispute resolution. When a tenant does not pay rent or file an application for dispute resolution, the tenant is conclusively presumed to have accepted the tenancy ends on the effective date of the notice.

In this case, the Landlord testified, and I find, that the Tenant did not pay outstanding rent when due. Accordingly, the Landlord served the Tenant with the notice to end tenancy by posting a copy to the door of the Tenant's rental unit on December 19, 2016. Pursuant to sections 88 and 90 of the *Act*, documents served in this manner are deemed to be received three days later. I find that the 10 Day Notice is deemed to have been received by the Tenant on December 22, 2016.

As the Tenant did not pay rent or dispute the 10 Day Notice within five days after receiving it, the Landlord is entitled to an order of possession, which will be effective two (2) days after service on the Tenant.

In addition, K.F. testified, and I find, that rent in the amount of \$1,930.00 remains owing. The Tenant did not attend the hearing to dispute this amount, although duly served with notice of the hearing. Accordingly, I find the Landlord is entitled to a monetary award of \$1,930.00 for unpaid rent.

Having been successful, I find the Landlord is also entitled to recover the \$100.00 filing fee paid to make this Application. On behalf of the Landlord, K.F. requested that the security deposit be applied to any amount owing, which I allow, pursuant to section 72 of the *Act*.

Accordingly, pursuant to section 67 of the *Act*, I grant the Landlord a monetary order in the amount of \$1,661.50, which has been calculated as follows:

<b>Claim</b>	<b>Amount</b>
Outstanding rent:	\$1,930.00
Filing fee:	\$100.00
LESS security deposit:	(\$368.50)
<b>TOTAL:</b>	<b>\$1,661.50</b>

Conclusion

The Landlord is granted an order of possession, which will be effective two (2) days after service on the Tenant. The order of possession may be filed in and enforced as an order of the Supreme Court of British Columbia.

The Landlord is granted a monetary order in the amount of \$1,661.50. This order may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

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 2, 2017

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Residential Tenancy Branch