



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding CREIGHTON& ASSOCIATES REALTY  
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.

Both parties attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

As both parties were in attendance I confirmed that there were no issues with service of the landlord's 10 Day Notice or application for dispute resolution. The tenant confirmed receipt of the materials. The tenant confirmed she has not filed an application for dispute resolution. In accordance with sections 88 and 89 of the *Act*, I find that the tenant was duly served with copies of the landlord's 10 Day Notice, the application for dispute resolution and evidence package.

### Issue(s) to be Decided

Is the landlord entitled to an order of possession for unpaid rent?

### Background and Evidence

The parties agreed on the following facts. This month-to-month tenancy began in November, 2014. The current rent is \$1,260.00 payable on the 1<sup>st</sup> of the month.

The landlord testified that a 10 Day Notice was issued on February 4, 2017 as the tenant failed to pay the February rent. The parties confirmed that after the 10 Day Notice was issued the tenant made partial payment of \$400.00 on February 6, 2017 and a subsequent payment of \$860.00 on February 21, 2017. The landlord testified that the tenant was informed payment was being accepted for use and occupancy only.

The tenant testified that she was unable to make timely rent payment due to a number of factors including medical issues and her employment situation. The tenant said she informed the landlord of her inability to make payment according to the tenancy agreement. The landlord testified that at no time did he agree that the tenant could make late rent payment.

### Analysis

Based on the evidence of the parties, I find that the tenant was obligated to pay the monthly rent in the amount of \$1,260.00. I accept the parties' evidence 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, February 17, 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: March 20, 2017

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Residential Tenancy Branch