



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

### Dispute Codes

OPR MNR

### Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution, received at the Residential Tenancy Branch on March 17, 2017, as amended (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 attended the hearing on his own behalf and provided affirmed testimony. The Tenant did not attend the hearing.

According to the Landlord, the Application package, including the Notice of a Dispute Resolution Hearing and the documentary evidence, was served on the Tenant by registered mail on February 24, 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 was received by the Tenant on March 1, 2017.

In addition, the Landlord advised that the amendments, which updated the amount of rent outstanding, were also served on the Tenant by registered mail. The Tenant did not submit any documentary evidence in response to the Application.

The Landlord was provided 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.

### 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 provided with his documentary evidence a copy of the tenancy agreement between the parties. It confirms the tenancy began on April 1, 2016. Rent was indicated to be \$1,100.00 per month. However, according to the Landlord, the Tenant expressed concern about paying this amount as he was having difficulties at work. As a result, the Landlord provided the Tenant with a rent “discount” of \$100.00 per month from April to August 2016. This was recorded in an addendum to the tenancy agreement, signed by the Tenant. As of September 1, 2016, rent was to increase to \$1,100.00 per month. The required security deposit was not received by the Landlord.

The Landlord testified that the Tenant continued to pay only the discounted rent. Accordingly, he issued a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated February 9, 2017 (the “10 Day Notice”). At that time, \$600.00 was outstanding. Included with the Landlord’s documentary evidence are photographic images confirming service of the 10 Day Notice by attaching a copy to the door of the Tenant’s rental unit.

The Landlord also testified he received only \$1,000.00 for rent for March, and that \$100.00 is outstanding. No rent has been paid for April 2017. According to the Landlord, the Tenant owes \$1,800.00 in outstanding rent (\$600.00 + \$100.00 + \$1,100.00). The Landlord also sought recovery of the \$100.00 filing fee paid to make the Application.

### Analysis

Based on the unchallenged affirmed 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 under this section has five days after receipt to either pay rent in full or file an application for dispute resolution. When a tenant does not pay rent in full 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 rent when due. Accordingly, the Landlord issued the 10 Day Notice, which was served on the Tenant by attaching a copy to the door of the Tenant’s rental unit on February 9, 2017. Pursuant to sections 88 and 90 of the *Act*, documents served in this manner are deemed to be received three days later. I find the 10 Day Notice is deemed to have been received by the Tenant on February 12, 2017. Accordingly, the Tenant had until February 17, 2017, to pay rent in full or to dispute the 10 Day Notice. As the Tenant did not pay rent in full or dispute the 10 Day Notice

with five days after receipt of the 10 Day Notice, I find the Tenant is deemed to have accepted the end of the tenancy. The Landlord is entitled to an order of possession, which will be effective two (2) days after it is served on the Tenant.

In addition, I am satisfied the Landlord has established a claim for outstanding rent in the amount of \$1,800.00. The Tenant did not attend the hearing to dispute the amount claimed by the Landlord. I find the Landlord is entitled to a monetary award for outstanding rent in this amount. Having been successful, I also find the Landlord is entitled to recover the \$100.00 filing fee paid to make this Application.

Pursuant to section 67 of the *Act*, I grant the Landlord a monetary order in the amount of \$1,900.00, which is comprised of \$1,800.00 in unpaid rent and \$100.00 as recovery of the filing fee.

### Conclusion

The Landlord is granted an order of possession, which will be effective two (2) days after it is served 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 \$1,900.00. 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: April 7, 2017

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Residential Tenancy Branch