



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPR, FF

### Introduction

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for orders as follows:

- An Order of Possession for unpaid rent pursuant to section 55 of the *Act*; and
- A return of the filing fee pursuant to section 72 of the *Act*.

Only the landlord appeared at the hearing. The landlord provided a copy of the 10 Day Notice to End Tenancy for Unpaid Rent ("10 Day Notice") served on the tenants. The landlord stated that he handed a copy of the 10 Day Notice to the tenant on January 18, 2017. Pursuant to sections 88 and 90 of the *Act*, the tenants were deemed served with the 10 Day Notice on that same day.

The landlord gave sworn testimony that on April 7, 2017 a copy of the Application for Dispute Resolution hearing package was posted on the tenants' rental unit door. The landlord stated that he spoke with other occupants of the neighbouring rental units who explained to the landlord that the tenants had received this package and were aware of their hearing. Pursuant to sections 89 and 90 of the *Act*, the tenants were deemed served with the dispute resolution hearing package on April 10, 2017.

### Issue(s) to be Decided

- Is the landlord entitled to an Order of Possession?
- Can the landlord recover the filing fee?

### Background and Evidence

The landlord gave evidence that the tenancy began in March 2016. Monthly rent for this unit was established at \$600.00 and no security or pet deposits were collected.

The landlord has applied for an Order of Possession for repeated non-payment of rent for the months running from October 2016 to January 2017. No rent has been paid for the time period from January 2017 to May 2017; however, the landlord explained that he is only pursuing the matter for the time period listed on the 10 Day Notice.

### Analysis

The tenants failed to pay the rent from October 2016 to January 2017 within five days of receiving the 10 Day Notice to End Tenancy. The tenants have not made an application pursuant to section 46(4) of the *Act* within five days of receiving the 10 Day Notice. In accordance with section 46(5) of the *Act*, the tenants' failure to take either of these actions within five days led to the end of his tenancy on the effective date of the notice. In this case, this required the tenant to vacate the premises by January 28, 2017. As that has not occurred, I find that the landlord is entitled to a 2 day Order of Possession. The landlord will be given a formal Order of Possession which must be served on the tenant. If the tenants do not vacate the rental unit within the 2 days required, the landlord may enforce this Order in the Supreme Court of British Columbia.

As the landlord was successful in his application, he may recover the \$100.00 filing fee from the tenants.

### Conclusion

The landlord will be given a formal Order of Possession which must be served on the tenants. If the tenants do not vacate the rental unit within the 2 days required, the landlord may enforce this Order in the Supreme Court of British Columbia.

I issue a Monetary Order in the landlord's favour in the amount of \$100.00 against the tenants for recovery of the filing fee.

The landlord is provided with a Monetary Order in the above terms and the tenants must be served with this Order as soon as possible. Should the tenants fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial 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: May 8, 2017

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Residential Tenancy Branch