



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

**Dispute Codes:** OPR MNR FF

### **Introduction**

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("the *Act*") for an Order of Possession for:

- an Order of Possession for unpaid rent and utilities, pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72 .

CL and KG appeared as agents for the landlord in the hearing, and had full authority to do so. KG ('landlord') testified as the primary agent for the landlord in this hearing. While the landlord attended the hearing by way of conference call, the tenants did not. The landlord was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord testified that the tenants were served with the landlord's application for dispute resolution hearing package on May 17, 2017 by way of registered mail. The landlord provided Canada Post tracking numbers in their evidence. In accordance with sections 89 and 90 of the *Act*, I find that the tenants were deemed served with the landlord's application on May 22, 2017, five days after its registered mailing.

The landlord testified that the tenants were served with the landlord's 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated May 2, 2017 ("10 Day Notice"), on May 2, 2017, by way of posting to the rental unit door. In accordance with sections 88 and 90 of the *Act*, I find that the tenants were deemed served with the landlord's 10 Day Notice on May 5, 2017, three days after its posting.

Although the landlords applied for a Monetary Order of \$203.04 in their initial claim, since they applied another \$5.50 in rent and \$83.98 in utilities have become owing that was not included in their application. I have accepted the landlord's request to amend their original application from \$203.04 to \$292.52 to reflect this additional unpaid rent and utilities that became owing by the time this hearing was convened.

**Issue(s) to be Decided**

Is the landlord entitled to an Order of Possession for unpaid rent and utilities pursuant to section 55 of the *Act*?

Is the landlord entitled to monetary compensation for unpaid rent and utilities pursuant to section 67 of the *Act*?

Is the landlord entitled to recover their filing fee for this application pursuant to section 72 of the *Act*?

**Background and Evidence**

The landlord testified regarding the following facts. This month-to-month tenancy began on September 28, 2015, with monthly rent in the amount of \$858.00 payable on the first day of each month. The landlord holds a security deposit in the amount of \$412.50 for this tenancy. The tenants continue to reside in the rental unit.

The landlord issued the 10 Day Notice, indicating an effective move-out date of May 15, 2017. The landlord testified that the tenants owe \$73.00 in outstanding rent, and \$219.52 in outstanding utilities. The landlord is seeking an Order of Possession as well as monetary compensation in the amount of \$292.52 for the unpaid rent and utilities, and \$100.00 for recovery of the filing fee for this application.

**Analysis**

The landlord provided undisputed evidence at this hearing, as the tenants did not attend. The tenants failed to pay the rent and utilities in full, within five days of being deemed to have received the 10 Day Notice. The tenants did not make an application pursuant to section 46(4) of the *Act* within five days of being deemed to have received the 10 Day Notice. In accordance with section 46(5) of the *Act*, the failure of the tenants to take either of the above actions within five days led to the end of this tenancy on May 15, 2017, the effective date on the 10 Day Notice. In this case, this required the tenants and anyone on the premises to vacate the premises by May 15, 2017. As this has not occurred, I find that the landlord is entitled to a two (2) day Order of Possession, pursuant to section 55 of the *Act*. I find that the landlord's 10 Day Notice complies with section 52 of the *Act*.

The landlord provided undisputed evidence that the tenants failed to pay the outstanding rent and utilities in the amount of \$292.52. Therefore, I find that the landlord is entitled to \$292.52 in outstanding rent and utilities for this tenancy.

The landlord continues to hold the tenants' security deposit of \$412.50. In accordance with the offsetting provisions of section 72 of the *Act*, I order the landlord to retain a portion of the tenants' security deposit in partial satisfaction of the monetary claim.

As the landlord was successful in their application, I find that they are entitled to recover the filing fee for this application.

### **Conclusion**

I grant an Order of Possession to the landlord effective **two (2) days after service on the tenants**. Should the tenants 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.

I find the landlord is entitled to \$292.52 in outstanding rent and utilities. I also find the landlord is entitled to recover the \$100.00 filing fee for this application. In accordance with the offsetting provisions of section 72 of the *Act*, I order the landlord to retain **\$392.52** of the tenants' security deposit in satisfaction of this monetary claim.

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: June 26, 2017

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Residential Tenancy Branch