



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute codes      OPR MNR MNSD FF

### Introduction

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

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

The hearing was conducted by conference call. All named parties attended the hearing and were given a full opportunity to provide testimony, to present evidence and to make submissions. The tenants confirmed service of the application for dispute resolution, including the notice of hearing and evidence on file.

### Issues

Is the landlord entitled to an order of possession pursuant to a 10 Day Notice to End Tenancy for unpaid rent (the 10 Day Notice)?

Is the landlord entitled to a monetary award for unpaid rent?

Is the landlord entitled to recover the filing fee for this application from the tenant?

### Background and Evidence

The tenancy began on January 19, 2004 with a monthly rent of \$700.00 payable on the 1<sup>st</sup> day of each month. The current landlord purchased the rental property on April 28, 2017 and the tenancy continued. The parties agreed to additional addendums which included the tenants paying a security and pet deposit by May 1, 2017 and an increase of rent effective August 2017. The parties also agreed that rent for the month of May would be payable May 10, 2017.

The landlord testified that on May 11, 2017 she served the tenants with the 10 Day Notice by posting a copy to the door of the rental premises. The landlord testified that the tenants did not pay the outstanding amount of rent as indicated in the 10 Day Notice

within five days of service of the Notice. The Notice indicates the tenants failed to pay rent in the amount of \$700.00 that was due on May 10, 2017.

The landlord's monetary claim is for outstanding rent in the amount of \$1400.00. The landlord testified that this includes unpaid rent for the months of May and June 2017.

The tenants acknowledged service of the 10 Day Notice and that they did not pay the full amount of the arrears indicated, within five days, of receiving the Notice. The tenants' state they do not agree with the landlord attempting to increase the rent more than the allowable percentage and the landlord's request for the security and pet deposits. The tenants state they have the original rent amount and are prepared to pay it but not the increase.

### Analysis

I am satisfied that the tenants were deemed served with the 10 Day Notice on May 14, 2017, three days after its posting, pursuant to sections 88 & 90 of the Act.

Section 46 of the Act requires that upon receipt of a Notice to End Tenancy for non-payment of rent the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If, as in the present case, the tenant does neither of these two things, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice, May 24, 2017.

I find that the Notice issued on May 11, 2017 complies with the requirements of Section 52 of the Act, accordingly, the landlord is granted an Order of Possession pursuant to section 55 of the Act.

Section 26 of the Act requires that a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

I find that the tenant was obligated to pay monthly rent in the amount of \$700.00 but failed to pay rent for the months of May and June 2017. I accept the landlord's claim for outstanding rent of \$1400.00.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee paid for this application for a total monetary award of \$1500.00.

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant. Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

Pursuant to section 67 of the *Act*, I grant the landlord a Monetary Order in the amount of \$1500.00. Should the tenant 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: June 22, 2017

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Residential Tenancy Branch