



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes            OPR

### Introduction

This hearing was convened as a result of the landlord's application for dispute resolution under the *Residential Tenancy Act* (the "Act") for an order of possession for unpaid rent or utilities based on an undisputed 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated May 3, 2017 (the "10 Day Notice").

The landlord and the tenant attended the teleconference hearing. The hearing process was explained to both parties. During the hearing the parties were given the opportunity to provide their evidence orally. A summary of the affirmed testimony of the parties is provided below and includes only that which is relevant to the hearing.

The tenant confirmed that she had a copy of the 10 Day Notice before her during the hearing.

### Issue to be Decided

- Is the landlord entitled to an order of possession for unpaid rent or utilities under the *Act*?

### Background and Evidence

The parties agreed that a month to month tenancy began on February 1, 2017 and that monthly rent was \$450.00 per month and was due on the first day of each month. The tenant paid a security deposit of \$225.00 at the start of the tenancy which the landlord continues to hold.

The tenant confirmed that she was served on May 3, 2017 with the 10 Day Notice that was also dated May 3, 2017. The tenant confirmed that she did not dispute the 10 Day Notice and has not paid rent for May, June or July of 2017.

The landlord is seeking an order of possession and the recovery of the cost of the filing fee if he is entitled to do so under the *Act*.

### Analysis

Based on the documentary evidence and testimony provided by the parties, and on the balance of probabilities, I find the following.

**Order of Possession** – There is no dispute that the tenant has not paid rent for May, June or July of 2017 as the tenant confirmed such during the hearing. There is also no dispute that the

tenant was served with the 10 Day Notice and did not dispute the 10 Day Notice or pay any amount of rent within the five day timeline after May 3, 2017, which was the date the tenant confirmed being served with the 10 Day Notice.

Therefore, I find that the tenant is conclusively presumed pursuant to section 46 of the *Act*, to have accepted that the tenancy ended on the effective vacancy date on the 10 Day Notice, May 13, 2017. As a result, **I grant** the landlord an order of possession effective **two (2) days** after service on the tenant. I find the tenancy ended on May 13, 2017 and that the tenant has been over-holding the rental unit since the end of tenancy date.

As the landlord's application was successful, **I grant** the landlord the recovery of the **\$100.00** filing fee pursuant to section 72 of the *Act*. **I authorize** the landlord to retain **\$100.00** from the tenant's \$225.00 security deposit in full satisfaction of the landlord's recovery of the cost of the filing fee. As a result, I find the tenant's security deposit balance has been reduced from \$225.00 to \$125.00.

#### Conclusion

The landlord's application is successful.

The landlord has been granted an order of possession effective two (2) days after service on the tenant, which must be served on the tenant and may be enforced in the Supreme Court of British Columbia.

The tenancy ended on May 13, 2017.

The landlord has been authorized to retain \$100.00 from the tenant's security deposit in full satisfaction of the recovery of the cost of the filing fee. The tenant's security deposit has been reduced from \$225.00 to \$125.00 as a result.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and 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: July 12, 2017

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Residential Tenancy Branch