



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPR

### Introduction

This hearing dealt with the landlord's application pursuant to section 55 of the *Residential Tenancy Act* (the *Act*) for an Order of Possession for unpaid rent.

The tenant did not attend this hearing, although I waited until 1:43 p.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 1:30 p.m. The landlord and the landlord's agent, J.B., attended the hearing and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The agent, J.B. (the landlord) stated that they would be the primary speaker.

The landlord testified that the Landlord's Application for Dispute Resolution (the Application) and evidentiary package was sent to the tenant by way of registered mail on August 23, 2017. The landlord provided the Canada Post Tracking Number to confirm this registered mailing. In accordance with sections 88, 89 and 90 of the *Act*, I find that the tenant was deemed served with the Application and evidentiary package on August 28, 2017, the fifth day after its registered mailing.

The landlord entered into evidence a signed and witnessed Proof of Service Document attesting to the fact that the 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) was personally served to the tenant at 4:00 p.m. on July 25, 2017. In accordance with section 88 of the *Act* I find that the 10 Day Notice, identifying \$700.00 in unpaid rent owing for this tenancy, was duly served to the tenant.

At the outset of the hearing the landlord testified that it appears that the tenant is no longer in the rental unit but that the landlord has not taken possession of the rental unit back yet. The landlord stated that they are still seeking an Order of Possession.

### Issues(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent?

### Background and Evidence

The landlord gave undisputed sworn testimony that they do not know when this tenancy began as they just recently acquired the building as of June 19, 2017, and the previous landlord did not provide any written tenancy agreements. The landlord gave undisputed sworn testimony that the monthly rent is \$700.00, due on the first day of each month. The landlord gave undisputed sworn testimony that no security deposit was paid by the tenant. A copy of the signed 10 Day Notice, dated July 25, 2017, with an effective date of August 05, 2017, was included in the landlord's evidence.

### Analysis

Section 26 of the *Act* requires a tenant to pay rent to the landlord, regardless of whether the landlord complies with the *Act*, regulations or tenancy agreement, unless the tenant has a right to deduct all or a portion of rent under the *Act*. Based on the landlord's evidence and undisputed sworn testimony, I find the tenant failed to pay any rent within five days of receiving the 10 Day Notice and did not make 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 failure of the tenant to take either of these actions within five days led to the end of this tenancy on August 05, 2017, the effective date on the 10 Day Notice. In this case, the tenant and anyone on the premises were required to vacate the premises by August 05, 2017. As this may not have occurred, I find that the landlord is entitled to a two (2) day Order of Possession.

### Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant. Should the tenant or any occupant 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.

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: September 19, 2017

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Residential Tenancy Branch