



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPR, MNR

### Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (the *Act*), I was designated to hear this matter. This hearing dealt with the landlords' application for:

- an Order of Possession for unpaid rent pursuant to section 55; and
- a monetary order for unpaid rent pursuant to section 67;

The tenant did not attend this hearing, although I waited until 11:15 a.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 11:00 a.m. An agent of the landlords, R.B., (the landlord) attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord gave undisputed sworn testimony that he personally handed the tenant the Landlord's application for Dispute Resolution (the Application) on August 11, 2017. In accordance with section 89 of the *Act*, I find that the tenant was duly served with the Application.

The landlord testified that he had a previous hearing (file number listed above on style of cause page) on July 10, 2017, in which he was given an Order of Possession and authorization to keep the tenant's security deposit. The landlord testified that the address of the rental unit on the landlord's Application for Dispute Resolution that was the basis for the hearing on July 10, 2017, had the wrong suffix and was not enforceable. The landlord testified that the tenant is still in the rental unit and continues to only pay half of the monthly rent. The previous hearing on July 10, 2017, authorized the landlord to retain the security deposit but no Monetary Order was issued.

As the previous hearing was for a different address than the one that is the subject of this hearing, I find that I am able to consider the landlord's new application.

The landlord gave undisputed sworn testimony that a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) was personally handed to the tenant on May 03, 2017. In accordance with section 88 of the *Act*, I find that the 10 Day Notice, identifying \$2,104.75 in rent owing for this tenancy, was duly served to the tenant on May 03, 2017

At the outset of the hearing the landlord indicated that they were primarily concerned with obtaining the Order of Possession at this time and withdrew their request for a Monetary Order for the unpaid rent.

### Issues(s) to be Decided

Are the landlords entitled to an Order of Possession for unpaid rent?

### Background and Evidence

The landlord gave written evidence that this tenancy began on March 1, 2016, with a monthly rent of \$800.00 due on the first day of the month. The landlord has been authorized, in a previous hearing, to retain the \$400.00 security deposit.

A copy of the signed 10 Day Notice, with the correct address on it, dated May 03, 2017, with an effective date of May 18, 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 undisputed 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 May 18, 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 May 18, 2017. As this has not 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 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.

The request for a Monetary Order is hereby withdrawn.

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 08, 2017

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Residential Tenancy Branch