



# Dispute Resolution Services

Page: 1

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 1:42 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 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, K.L. (the landlord) stated that they would be the primary speaker.

Rule 10.1 of the Rules of Procedure provides as follows:

**10.1 Commencement of the hearing** - The hearing must commence at the scheduled time unless otherwise decided by the arbitrator. The arbitrator may conduct the hearing in the absence of a party and may make a decision or dismiss the application, with or without leave to re-apply.

The landlord testified that the Landlord's Application for Dispute Resolution (the Application) was sent to the tenant by way of registered mail on September 21, 2017. The landlord provided the Canada Post Tracking Number to confirm this registered mailing. In accordance with sections 89 and 90 of the *Act*, I find that the tenant was deemed served with the Application on September 26, 2017, the fifth day after its registered mailing.

The landlord testified that the landlord's evidentiary package was sent to the tenant by way of registered mail on October 05, 2017. The landlord provided the Canada Post Tracking Number to confirm this registered mailing. In accordance with sections 88 and 90 of the *Act*, I find that the tenant was deemed served with the evidentiary package on October 10, 2017, the fifth day after its registered mailing.

The landlord testified that the 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) was sent by registered mail to the tenant on August 23, 2017. The landlord provided the Canada Post Tracking Number to confirm this registered mailing. In accordance with sections 88 and 90 of the *Act*, I find that the 10 Day Notice was deemed served to the tenant on August 28, 2017.

### Issues(s) to be Decided

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

### Background and Evidence

The landlord gave undisputed affirmed testimony that this tenancy commenced on October 01, 2005, with a monthly rent of \$1,000.00 due on the first day of each month. The landlord testified that no security deposit was paid by the tenant.

A copy of the signed 10 Day Notice dated August 22, 2017, identifying \$43,000.00 in unpaid rent owing for this tenancy, with an effective date of September 08, 2017, was included in the landlord's evidence. The 10 Day Notice indicated the tenant had five days to either pay the outstanding rent or file an Application for Dispute Resolution seeking to cancel the Notice.

A copy of a 'Land Title Form A Freehold Transfer' form showing transfer of the title of the rental unit to the current owner and landlord of the property.

### 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 that same time period. 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 September 08, 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 September 08, 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 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: November 14, 2017

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Residential Tenancy Branch