



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

**Dispute Codes:** OPR FF ET

### Introduction

This hearing dealt with the landlords' application pursuant to the *Residential Tenancy Act* ("the *Act*") for an Order of Possession for:

- an Order of Possession for non-payment of rent pursuant to section 55;
- for an early end to this tenancy and an Order of Possession pursuant to section 56; and
- authorization to recover the filing fee for this application, pursuant to section 72 .

While the landlords attended the hearing by way of conference call, the tenant did not. The landlord's agent was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlords testified that the tenant was served with the landlord's application for dispute resolution hearing package and evidence on November 15, 2017 by way of registered mail. The landlord provided a Canada Post tracking number during the hearing. The landlords testified that the tenant was served with the amendment by posting it on the tenant's door on November 27, 2017. In accordance with sections 88, 89 and 90 of the *Act*, I find that the tenant was deemed served with the landlords' application, evidence, and amendment.

The landlords testified that the tenant was served with the landlord's 10 Day Notice to End Tenancy for Unpaid Rent or Utilities ("10 Day Notice") on October 4, 2017 by posting the notice on the tenant's door. In accordance with sections 88 and 90 of the *Act*, I find that the tenant was deemed served with the landlord's 10 Day Notice on October 7, 2017, three days after posting.

At the beginning of the hearing the landlord indicated that they wished to proceed with their application for an Order of Possession pursuant to the 10 Day Notice issued on

October 4, 2017, as amended on November 27, 2017. Accordingly the landlord's application for an early end of this tenancy and order of possession pursuant to section 56 was withdrawn.

**Issue(s) to be Decided**

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

Are the landlords entitled to recover their filing fee for this application?

**Background and Evidence**

The landlords testified regarding the following facts. This month-to-month tenancy began on November 1, 2016, with monthly rent in the amount of \$1,100.00 payable on the first day of each month. No security deposit was ever collected. The tenant continues to reside in the rental unit.

The landlord issued a 10 Day Notice to End Tenancy, dated October 4, 2017 as the tenant failed to pay rent outstanding rent in the amount of \$2,100.00. The landlords testified that the tenant has not paid for the months of September 2017 through to January 2018 since the 10 Day Notice was issued to the tenant. The landlords are seeking an Order of Possession as well as recovery of the filing fee.

**Analysis**

The landlords provided undisputed evidence at this hearing, as the tenant did not attend. The tenant failed to pay the rent in full, within five days of being deemed to have received the 10 Day Notice. The tenant did not make an application pursuant to section 46(4) of the *Act* within five days of being deemed to have received the 10 Day Notice. In accordance with section 46(5) of the *Act*, the failure of the tenant to take either of the above actions within five days led to the end of this tenancy on October 17, 2017, the corrected effective date of the 10 Day Notice. In this case, this required the tenant and anyone on the premises to vacate the premises by October 17, 2017. As this has not occurred, I find that the landlords are entitled to a two (2) day Order of Possession, pursuant to section 55 of the *Act*. I find that the landlords' 10 Day Notice complies with section 52 of the *Act*.

As the landlords were successful in their application, I find that they are entitled to recover the filing fee for this application.

**Conclusion**

I grant an Order of Possession to the landlord effective **two (2) days after service on the tenant(s)**. Should the tenant(s) 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.

I issue a \$100.00 Monetary Order in favour of the landlords, which allows the landlords to recover the filing fee for this application. The tenant(s) must be served with this Order as soon as possible. Should the tenant(s) 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: January 11, 2018

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Residential Tenancy Branch