



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 0696702 B.C. LTD.  
And [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MNR, FF

### Preliminary matter

This hearing was scheduled as a result of the Landlord's application being adjourned from a Direct Request application to a participatory hearing because of issues in how documents were served to the Tenant. The details of the service issues are in the interim decision dated January 12, 2018.

### Introduction

This matter dealt with an application by the Landlord for an Order of Possession and a Monetary Order for unpaid rent and to recover the filing fee for this proceeding.

The Landlord said he served the Tenant with the Application and Notice of Hearing (the "hearing package") by registered mail and posting it on the door of the Tenant's rental unit on January 5, 2018. Based on the evidence of the Landlord, I find that the Tenant was served with the Landlord's hearing package as required by s. 89 of the Act and the hearing proceeded in the Tenant's absence.

### Issues(s) to be Decided

1. Does the Landlord have grounds to end the tenancy?
2. Are there rent arrears and if so, how much?
3. Is the Landlord entitled to compensation for unpaid rent and if so how much?

### Background and Evidence

This tenancy started on October 1, 2017 as a 1 year fixed term tenancy with an expiry date of September 30, 2018. Rent is \$1,600.00 per month payable on the 1<sup>st</sup> day of each month. The Tenant did not pay the required security deposit of \$800.00 at the start of the tenancy.

The Landlord said that the Tenant did not pay \$1,600.00 of rent for each month of November 2017, December 2017 and January 2018 when it was due and as a result, on January 5, 2018 the Landlord registered mailed and posted 10 Day Notices to End Tenancy for Unpaid Rent or Utilities dated January 5, 2018 on the door of the Tenant's rental unit. The Landlord said the Tenant also has unpaid rent for February 2018 in the amount of \$1,600.00.

The Landlord further indicated that the Tenant is living at the rental unit and the Landlord requested to end the tenancy for unpaid rent and a number of other issues.

The Landlord also sought to recover the \$100.00 filing fee for this proceeding.

### Analysis

Section 46(4) of the Act states that **within 5 days of receiving** a Notice to End Tenancy for Unpaid Rent or Utilities, a Tenant must pay the overdue rent or apply for dispute resolution. If the Tenant fails to do either of these things, then under section 46(5) of the Act, they are conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice and they must vacate the rental unit at that time.

Under s. 90 of the Act, the Tenant is deemed to have received the Notice to End Tenancy 3 days after it was posted, or on January 8, 2018. Consequently, the Tenant would have had to pay the amount stated on the Notice or apply to dispute that amount no later than January 13, 2018.

I find that the Tenant has not paid the overdue rent and has not applied for dispute resolution. Consequently, I find pursuant to s. 55(2)(b) of the Act that the Landlord is entitled to an Order of Possession to take effect 48 hours after service of it on the Tenant.

I also find that the Landlord is entitled to recover unpaid rent for the months of November and December, 2017 and January and February 2018, in the amount of \$5,400.00.

As the Landlord has been successful in this matter, he is also entitled to recover from the Tenant the \$100.00 filing fee for this proceeding. The Landlord will receive a monetary order for the balance owing as following:

Rent arrears:	\$5,400.00	
Recover filing fee	\$ 100.00	
Subtotal:		\$5,500.00
Balance Owing		\$5,500.00

### Conclusion

An Order of Possession effective 2 days after service of it on the Tenant and a Monetary Order in the amount of \$5,500.00 have been issued to the Landlord. A copy of the Orders must be served on the Tenant: the Order of Possession may be enforced in the Supreme Court of British Columbia and the Monetary Order may be enforced in the Provincial (Small Claims) 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: February 06, 2018

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Residential Tenancy Branch