



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** FFL OPRM-DR

### **Introduction**

This hearing, adjourned from a Direct Request process in which a decision is made based solely on the written evidence submitted by the landlord, dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for:

- an Order of Possession for unpaid rent, pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72 .

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

The landlord testified that the tenant was served by way of Registered Mail with the landlord's application for dispute resolution hearing package on February 8, 2018. In accordance with sections 88, 89, and 90 the *Act*, I find that the tenant was deemed served with the landlord's application on February 13, 2018, five days after its registered mailing.

The landlord testified that the tenant was served with the landlord's 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated January 5, 2018("10 Day Notice") on January 5, 2018 by way of 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 January 8, 2018, three days after its posting.

Although the landlord applied for a monetary Order of \$2,220.00 in their initial claim, since they applied another \$1,500.00 in rent has become owing that was not included in their application. I have accepted the landlord's request to amend their original

application from \$2,220.00 to \$2,470.00 to reflect this additional unpaid rent that became owing by the time this hearing was convened.

### **Issue(s) to be Decided**

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

Is the landlord entitled to monetary compensation for unpaid rent?

Is the landlord entitled to recover their filing fee for this application?

### **Background and Evidence**

The landlord testified regarding the following facts. This month-to-month tenancy began on November 1, 2016, with monthly rent in the amount of \$750.00 payable on the first day of each month which covers the rental for both the pad and manufactured home. The landlord holds a security deposit in the amount of \$375.00 for this tenancy. The tenant still resides there.

The landlord issued the 10 Day Notice on January 5, 2018, indicating an effective move-out date of January 15, 2018. The landlord testified that the tenant owes \$2,470.00 in outstanding rent. \$2,220.00 was outstanding at the time the 10 Day Notice was issued to the tenant. Since the 10 Day Notice was issued the tenant made a \$550.00 payment on February 1, 2018, and a \$700.00 payment on March 5, 2018. At the time of the hearing the tenant owed \$2,470.00 in outstanding rent.

### **Analysis**

The landlord 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 January 18, 2018, the corrected effective date on the 10 Day Notice. In this case, this required the tenant and anyone on the premises to vacate the premises by January 18, 2018. I find that the landlord's 10 Day Notice complies with section 52 of the *Act*. As the tenant has not moved out, I find that the landlord is entitled to a two (2) day Order of Possession,

pursuant to section 55 of the *Act* so the landlord may take full possession of the premises.

The landlord provided undisputed evidence that the tenant failed to pay the outstanding rent in the amount of \$2,470.00. Therefore, I find that the landlord is entitled to \$2,470.00 in outstanding rent for this tenancy.

The landlord continues to hold the tenant's security deposit of \$375.00. In accordance with the offsetting provisions of section 72 of the *Act*, I order the landlord to retain the tenant's security deposit in partial satisfaction of the monetary claim.

As the landlord was 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**. 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.

I issue a \$2,195.00 Monetary Order in favour of the landlord, which allows the landlord to recover unpaid rent, the filing fee for this application, and also allows the landlord to retain the tenant's security deposit in partial satisfaction of the monetary claim.

Item	Amount
Unpaid Rent	\$2,470.00
Recovery of Filing Fee for this Application	100.00
Security Deposit and Pet Damage Deposit	-375.00
<b>Total Monetary Order</b>	<b>\$2,195.00</b>

The tenant must be served with this Order as soon as possible. Should the tenant 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: March 5, 2018

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Residential Tenancy Branch