



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 0960569 BC LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MNR, FF

### Introduction

This matter dealt with an application by the Landlord to end the tenancy, for an Order of Possession, for 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 on January 12, 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 in May, 2017 as a verbal month to month tenancy. Rent is \$1,050.00 per month payable in advance of the 1<sup>st</sup> day of each month. The Tenant paid a security deposit of \$525.00 at the start of the tenancy.

The Landlord said that the Tenant did not pay \$1,050.00 of rent for January, 2018 when it was due and as a result, on January 3, 2018 the landlord personally delivered a 10 day Notice to End Tenancy for Unpaid Rent or Utilities dated January 2, 2018. The Landlord said the Tenant has unpaid rent for February and March, 2018. The Landlord continued to say the Tenant made a payment of \$1,500.00 on February 19, 2018 but there is still \$1,650.00 of unpaid rent outstanding.

The Landlord further indicated that the Tenant is living at the rental unit and the Landlord requested an Order of Possession for March 31, 2018 if his application is successful.

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 on the day it is personally delivered, or on January 3, 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 8, 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 at 1:00 p.m. on March 31, 2018.

Further, I also find that the Landlord is entitled to recover unpaid rent in the amount of \$1,650.00 for the outstanding balances of rent for February and March, 2018

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. Pursuant to s. 67 and s. 72 of the Act I grant a monetary order to the Landlord for the following:

Rent arrears:	\$1,650.00	
Recover filing fee	\$ 100.00	
Subtotal:		\$1,750.00
Balance Owing		\$1,750.00

#### Conclusion

An Order of Possession effective March 31, 2018 and a Monetary Order in the amount of \$1,750.00 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: March 05, 2018

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Residential Tenancy Branch