



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** OPRM-DR FFL

### **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 AT ("landlord") 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 20, 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 25, 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 11, 2018 ("10 Day Notice") on January 11, 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 14, 2018, three days after its posting.

### **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 in November 2009, with monthly rent currently in the amount of \$850.00 payable on the first day of each month. The landlord believes the tenant may have moved out, but is requesting an Order of Possession.

The landlord issued the 10 Day Notice on January 11, 2018, indicating an effective move-out date of January 24, 2018. The tenant failed to pay rent in the amount of \$850.00. The landlord testified the tenant has not made any payments since the 10 Day Notice was issued.

### **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 24, 2018, the 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 24, 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 \$850.00. Therefore, I find that the landlord is entitled to \$850.00 in outstanding rent for this tenancy.

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 \$950.00 Monetary Order in favour of the landlord, which allows the landlord to recover unpaid rent, and the filing fee for this application.

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 9, 2018

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Residential Tenancy Branch