



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute codes      OPR MNR CNR MNDC OLC MT

### Introduction

This hearing was convened in response to cross-applications by the parties pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

Landlord:

- an order of possession for failure to pay rent pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67;
- authorization to recover the filing fee for this application pursuant to section 72.

Tenant:

- cancellation of the landlord's 10 Day Notice to End Tenancy for unpaid rent pursuant to section 46 (the 10 Day Notice);
- more time to make an application to cancel the landlord's the 10 Day Notice pursuant to section 66;
- an order requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62;
- a monetary order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67.

The hearing was conducted by conference call. The tenant did not attend this hearing, although I waited until 10:45 a.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 10:30 a.m. The landlord attended the hearing and was given a full opportunity to provide affirmed testimony, to present evidence and to make submissions.

The landlord testified that on March 21, 2018, a copy of his Application for Dispute Resolution and Notice of Hearing was sent to the tenant by registered mail. The landlord provided a registered mail tracking number(s) in support of service.

Based on the above evidence, I am satisfied that the tenant was deemed served with the Landlord's Application for Dispute Resolution and Notice of Dispute Resolution Hearing pursuant to sections 89 & 90 of the Act. Additionally, as this hearing was initially scheduled in response to the tenant's own application, the tenant ought to have been aware of the hearing date and time.

As the tenant failed to participate in this hearing, the tenant's application is dismissed in its entirety without leave to reapply. The hearing into the landlord's application proceeded in the absence of the tenant.

### Issues

Is the landlord entitled to an order of possession for unpaid rent?

Is the landlord entitled to a monetary award for unpaid rent?

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

### Background and Evidence

The tenancy began on December 1, 2017 with a monthly rent of \$800.00 payable on the 1<sup>st</sup> day of each month. A tenancy agreement was submitted as evidence by the landlord. A security deposit was not collected at the start of the tenancy.

The landlord testified the tenant has failed to pay the \$800.00 rent payable for the duration of the tenancy. The landlord testified that on February 26, 2018 he served the tenant with the 10 Day Notice by posting a copy to the door of the rental premises.

The landlord testified that the tenant did not pay the outstanding amount of rent as indicated on the 10 Day Notice within five days of service of the Notice and has not paid any rent since up to the date of the hearing.

The landlord's monetary claim is for outstanding rent in the amount of \$4800.00. The landlord testified that this includes unpaid rent for the period of December 1, 2017 up to and including the month of May 2018.

The tenant filed the application to dispute the 10 Day Notice on March 7, 2018.

### Analysis

I am satisfied that the tenant received the 10 Day Notice on February 28, 2018 as indicated in the tenant's application for dispute resolution.

Section 46 of the Act requires that upon receipt of a 10 Day Notice the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the Notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch.

Section 26 of the Act requires that a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

Although the tenant filed an application for dispute resolution, I find the tenant's application to dispute the 10 Day Notice must be dismissed as the tenant did not attend this hearing to provide evidence in support of his application.

Section 55(1) of the *Act* states that if a tenant applies to dispute a landlord's notice to end tenancy and their Application for Dispute Resolution is dismissed or the landlord's notice is upheld the landlord must be granted an order of possession if the notice complies with all the requirements of Section 52 of the *Act*.

I find that the 10 Day Notice issued by the landlord complies with the requirements of Section 52 of the Act, accordingly, the landlord is granted an Order of Possession pursuant to section 55 of the Act.

I find that the tenant was obligated to pay monthly rent in the amount of \$800.00 but failed to pay rent for the period of December 1, 2017 up to and including the month of May 2018. I accept the landlord's claim for outstanding rent of \$4800.00.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee paid for this application for a total monetary award of \$4900.00.

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant. Should the tenant(s) fail to comply with this Order; this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

Pursuant to section 67 of the *Act*, I grant the landlord a Monetary Order in the amount of \$4900.00. 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: May 22, 2018

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Residential Tenancy Branch