



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding BAKER & HAAS ENTERPRISES LTD  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR MNR FF

### Introduction

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

- an Order of Possession for non-payment of rent pursuant to section 55 of the *Act*;
- a Monetary Order pursuant to section 67 of the *Act* for unpaid rent under the *Act*; and
- a return of the filing fee pursuant to section 72 of the *Act*.

The tenant did not appear at the hearing, while the landlord’s agents, S.A. and J.Y (the “landlord”) participated in the conference call hearing. The landlord was given a full opportunity to be heard, to present testimony, to make submissions and to call witnesses.

The landlord explained that a 10 Day Notice to End Tenancy (“10 Day Notice”) was posted on the tenant’s door on April 15, 2018. Pursuant to sections 88 & 90 of the *Act* the tenant is deemed to have been served with this notice on April 18, 2018, three days after its posting.

On April 30, 2018 the landlord sent the tenant a copy of the application for dispute resolution and evidentiary package by way of Canada Post Registered Mail. A copy of the tracking number was provided to the hearing. Pursuant to sections 88, 89 & 90 of the *Act* the tenant is deemed to have been served with these documents on May 4, 2018, five days after having their mailing.

Issue(s) to be Decided

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

Can the landlord recover a monetary award for unpaid rent?

Is the landlord entitled to a return of the filing fee?

Background and Evidence

Undisputed testimony was provided by the landlord's agent, S.A. that this tenancy began sometime in the year 2000; however, she could not identify an exact month. Rent was \$1,900.00 per month, and a security deposit of \$800.00 paid at the outset of the tenancy continues to be held by the landlord.

The landlord served the tenant with a 10 Day Notice for Unpaid rent in the amount of \$3,800.00 on April 15, 2018. The tenant did not dispute this notice and did not pay the outstanding amount within five days of its posting. The landlord's agent explained that following the issuance of this 10 Day Notice, rent remained unpaid for May and June 2018. On June 18, 2018 the landlord received a cheque in the amount of \$7,600.00 representing all unpaid rent. This cheque was dated June 4, 2018. The landlord said that because the outstanding funds had only recently been received she had not yet issued a receipt to the tenant. She said she would be doing so but the receipt would note that the funds received were accepted for use and occupancy only, and were not accepted as rent.

Analysis

The tenant failed to pay the unpaid rent within five days of receiving the 10 Day Notice to End Tenancy. The tenant has not made an application pursuant to section 46(4) of the *Act* within five days of receiving the 10 Day Notice. In accordance with section 46(5) of the *Act*, the tenant's failure to take either of these actions within five days has led to the end of the tenancy on the effective date of the notice. In this case, this required the tenant to vacate the premises by April 28, 2018, the corrected effective date of the 10 Day Notice. As that has not occurred, I find that the landlord is entitled to an Order of Possession. The landlord will be given a formal Order of Possession which must be served on the tenants and will be effective on June 30, 2018, the final date for which payment for use and occupancy was received. If the tenant does not vacate the

rental unit by 1:00 P.M. on June 30, 2018, the landlord may enforce this Order in the Supreme Court of British Columbia.

No rent remains outstanding therefore the landlord is not entitled to a monetary award.

As the landlord was successful in his application he may recover the \$100.00 filing fee from the tenant. In place of a monetary order, I allow the landlord to withhold \$100.00 from the tenant's security deposit pursuant to the powers provided under section 72 of the *Act*.

### Conclusion

I grant an Order of Possession to the landlord effective 1:00 P.M. on June 30, 2018. Should the tenant fail to comply with this Order, this Order may be enforced as an Order of the Supreme Court of British Columbia.

The landlord may withhold \$100.00 from the tenant's security deposit in satisfaction for a return of the filing fee.

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: June 20, 2018

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Residential Tenancy Branch