



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, FFL

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession for unpaid rent, pursuant to section 46 and 55; and
- repayment of the filing fee, pursuant to section 72.

The tenant did not attend this hearing, although I left the teleconference hearing connection open for 12 minutes to enable the tenant to call into this teleconference hearing scheduled for 11:00 a.m. The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

The landlord testified that he personally served the tenant the notice of dispute resolution package on May 19, 2018. Based on the landlord's undisputed testimony, I find that the tenant was served with this package on May 19, 2018 in accordance with section 89 of the *Act*.

### Issue(s) to be Decided

1. Is the landlord entitled to an Order of Possession for unpaid rent, pursuant to section 46 and 55 of the *Act*?
2. Is the landlord entitled to repayment of the filing fee, pursuant to section 72 of the *Act*?

### Background and Evidence

While I have turned my mind to the documentary evidence and the testimony of the landlord, not all details of his submissions and arguments are reproduced here. The relevant and important aspects of the landlord's claims and my findings are set out below.

The landlord provided undisputed testimony that this tenancy began on December 1, 2017 and is currently ongoing. Monthly rent in the amount of \$2,500.00 is payable on the first day of each month. A security deposit of \$1,250.00 was paid by the tenant to the landlord. A written tenancy agreement was signed by both parties but only 3/6 pages were submitted for this application.

The landlord testified that the tenant did not pay rent for February, March, April, May, June or July 2018. On May 2, 2018 the landlord personally served a 10 Day Notice to End Tenancy for unpaid rent with an effective date of May 12, 2018 (the "10 Day Notice") on the tenant. The landlord provided a witnessed proof of service form to confirm this service. The tenant did not dispute the 10 Day Notice or file for dispute resolution.

### Analysis

Section 88 of the *Act* states that a 10 Day Notice may be personally served on the tenant. I accept the landlord's evidence that he personally served the tenant with the 10 Day Notice and find that service was effected on May 2, 2018.

The tenant failed to pay any rent within five days of receiving the 10 Day Notice. The tenant has not made 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 led to the end of his tenancy on the effective date of the notice. In this case, this required the tenant to vacate the premises by May 12, 2018; as that has not occurred, I find that the landlord is entitled to a 2-day Order of Possession.

As the landlord is successful in his application, I find that he is entitled to recover the \$100.00 filing fee for this application from the tenant.

Section 72(2) states that if the director orders a tenant to make a payment to the landlord, the amount may be deducted from any security deposit or pet damage deposit

due to the tenant. I find that the landlord is entitled to retain \$100.00 of the tenant's security deposit.

### Conclusion

Pursuant to section 55 of the *Act*, I grant an Order of Possession to the landlord effective **two days after service on the tenant**. Should the tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

The landlord is authorized to retain \$100.00 from the tenant's security deposit.

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: July 09, 2018

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Residential Tenancy Branch