



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding British Columbia Housing Management Commission  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MNRL, FFL

### Introduction

This is an Application for Dispute Resolution (the “Application”) brought by the Landlord for an Order of Possession for Unpaid Rent. The Landlord also requests a monetary order for payment of rent arrears. Finally, the Landlord requests an order for payment of the filing fee.

The property manager appeared for the scheduled hearing on behalf of the Landlord. The Tenant did not attend this hearing, although I left the teleconference hearing connection open for 10 minutes in order to enable the Tenant to call into this teleconference hearing scheduled for 9:30 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 confirmed that he served the Tenant with the Notice of Hearing and evidence package by registered mail on August 20, 2018, but it was eventually returned undelivered. Although all evidence was taken into consideration at the hearing, only that which was relevant to the issues is considered and discussed in this decision.

The Landlord explained that the Tenant has vacated the rental unit and that the Application can be amended to remove the request for an Order of Possession; this decision reflects that amendment.

### Issues to be Decided

Is the Landlord entitled to a monetary order for payment of rent arrears, pursuant to section 67 of the Residential Tenancy Act ("Act")?

Is the Landlord entitled to payment of the filing fee, pursuant to section 72 of the Act?

### Background and Evidence

The Landlord submitted the following evidentiary material in support of its claim for an Order of Possession and a monetary order:

- A copy of a residential tenancy agreement which was signed by the Landlord and a previous tenant on May 21, 2014, along with a form adding the Tenant as a tenant dated February 5, 2018; the Landlord explained that the original tenancy agreement was signed by the husband who then moved out in February, while the wife stayed on as Tenant under the agreement;
- a form entitled Calculation of Rent Contribution Details for April 1 to May 31<sup>st</sup>, 2018 showing \$694.00 to be the Tenant's contribution and June 1 to May 31<sup>st</sup> showing \$694.00 as the Tenant's contribution; this amount is based on the contribution from the Ministry;
- A Monetary Order Worksheet showing the rent owing beginning with a balance forward of \$284.00 after advocates for the previous tenant made a lump sum payment to cover most of the arrears to that point, March rent of \$694.00, April rent of \$694.00, May rent of \$694.00, June rent of \$694.00, July rent of \$694.00, along with an adjustment for April of \$96.00, with a total of \$3,658.00;
- The Landlord submitted an account statement and states that the Tenant now also owes for August rent; the total rent outstanding and claimed is \$4,448.00;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated July 12, 2018, with a stated effective vacancy date of July 23, 2018, for \$3,658.00 in unpaid rent; this notice was served in person on the Tenant on July 12, 2018 and was not disputed;

Evidence filed by the Landlord indicates that the final 10 Day Notice was served by leaving it with the Tenant in person on July 12, 2018. The 10 Day Notice states that

the tenant had five days from the date of service to pay the rent in full or apply for Dispute Resolution or the tenancy would end.

### Analysis

Rule 7.3 of the Residential Tenancy Branch Rules of Procedure states if a party or their agent fails to attend a hearing, the Arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the Application, with or without leave to re-apply.

I am satisfied that the Tenant was served in accordance with section 89 of the Act by registered mail; as per section 90 of the Act, the Tenant is deemed to be served 5 days after mailing, on August 25, 2018. As the Tenant did not call into the conference call by 9:40 a.m., the hearing proceeded in her absence.

I have reviewed all documentary evidence and in accordance with sections 88 and 90 of the Act, I find that the Tenant was effectively served with the 10 Day Notice on July 12, 2018.

I find that the Tenant was obligated to pay the monthly rent in the amount of \$694.00 as per the calculations contained within the tenancy agreement. I accept the evidence before me that the Tenant has failed to pay the rent owed in full within the five days granted under section 46 (4) of the Act and did not dispute the 10 Day Notice within that five day period.

Based on the foregoing, I find that the Tenant is conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the corrected effective date of the 10 Day Notice, July 23, 2018. However, the Tenant continued to reside in the rental unit until early September 2018 without paying the August rent, which the Landlord is also claiming.

The Landlord has filed a monetary claim for payment of the arrears in rent in the amount of \$4,448.00. In reviewing the documentation submitted, I note that there was a credit of \$94.00 to be applied for April, and therefore I am awarding \$4,352.00 in rent arrears and an order will be issued for payment by the Tenant. As the Landlord was successful in this application for possession, I am also prepared to award the filing fee of \$100.00.

This monetary order must be served on the Tenant and may then be filed in the Small Claims Division of the Provincial Court and enforced as an order of that court if the Tenant fails to make payment. Copies of this order are attached to the Landlord's copy of this Decision.

Conclusion

The Tenant is ordered to pay the sum of \$4,452.00 forthwith to the Landlord.

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: October 09, 2018

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Residential Tenancy Branch