



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPC, MNRL-S

### Introduction

This decision is in respect of the landlords' application for dispute resolution under the *Residential Tenancy Act* (the "Act") made on October 24, 2018. The landlords seek the following remedies:

1. an order of possession of the rental unit for cause, pursuant to sections 47 and 55 of the Act; and,
2. a monetary order for unpaid rent, pursuant to section 67 of the Act; and,

A dispute resolution hearing was convened on December 4, 2018, and the landlord and the landlord's agent attended, were given a full opportunity to be heard, to present testimony, to make submissions, and to call witnesses. The tenant failed to attend.

The landlords' agent testified that they served the Notice of Dispute Resolution Proceeding package (the "package") on the tenant by Canada Post Xpresspost on October 27, 2018. I find that the tenant was served with the package pursuant to section 89(2)(b) of the Act.

While I have reviewed all oral and documentary evidence submitted that met the requirements of the *Rules of Procedure* and to which I was referred, only evidence relevant to the issues of this application are considered in my decision.

### Issues to be Decided

1. Are the landlords entitled to an order of possession of the rental unit for cause?
2. Are the landlords entitled to a monetary order for unpaid rent?

### Background and Evidence

The landlords' agent testified that the tenancy commenced in the spring of 2015. Monthly rent is in the amount of \$1,900.00, and the tenant has not paid rent for the months of October, November and December 2018, for a total unpaid amount of \$5,700.00. The landlords seek an order of possession for unpaid rent and a monetary order for the unpaid rent. The agent confirmed that the landlords are not seeking compensation for recovery of the filing fee.

The agent further testified that the landlords served the tenant with a One Month to End Tenancy for Cause (the "Notice") in person on the tenant on October 9, 2018. A copy of the Notice was submitted into evidence.

### Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim. In this case, the landlords seek an order of possession for unpaid rent, and, a monetary order for unpaid rent.

### **Application for an Order of Possession**

Subsection 55(2)(c) of the Act states that a landlord may request an order of possession of a rental unit when a notice to end the tenancy has been given by the landlord, and the tenant has not disputed the notice by making an application for dispute resolution and the time for making that application has expired.

In this case, the landlords gave the tenant the Notice and the tenant did not make an application for dispute resolution, and the time for making such an application has expired. The tenant is therefore deemed to have accepted that the tenancy would end on the date indicated on the Notice.

Applying section 55 of the Act to the unchallenged testimony regarding the tenant's failure to pay rent for October, November and December 2018, and regarding the tenant's failure to apply for dispute resolution, pursuant to sections 46 and 55 of the Act, I grant an order of possession to the landlords. This order is effective two days after service upon the tenant.

### **Application for a Monetary Order for Unpaid Rent**

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 the Act, regulations or the tenancy agreement, unless the tenant has a right under the Act to deduct all or some of the rent. Pursuant to section 46 of the Act, the Notice informed the tenant that the Notice would be cancelled if she paid rent within five days of service. The Notice also explains that the tenant had five days from the date of service to dispute the Notice by filing an Application for Dispute Resolution. The tenant did neither.

The landlords' agent testified that the tenant has not paid rent when due. Further, there is no evidence before me that the tenant had a right under the Act to deduct some or all of the rent, and no evidence that she applied to cancel the Notice. As such, I find that the landlords have proven on a balance of probabilities that the tenant owes them rent in the amount of \$5,700.00.

### Conclusion

I grant the landlords an order of possession, which must be served on the tenant and is effective two days from the date of service. This order may be filed in, and enforced as an order of, the Supreme Court of British Columbia.

Further, I grant the landlords a monetary order in the amount of \$5,700.00, which must be served on the tenant. The order may be filed in, and enforced as an order of, the Provincial Court of British Columbia.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under section 9.1(1) of the Act.

Dated: December 4, 2018

---

Residential Tenancy Branch