



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes**      FFL OPRM-DR

### **Introduction**

This hearing, adjourned from a Direct Request process in which a decision is made based solely on the written evidence submitted by the landlord, dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for:

- an Order of Possession for unpaid rent pursuant to section 55; and
- a monetary order for unpaid rent pursuant to section 67.

The tenant did not attend this hearing, which lasted approximately 10 minutes. The landlord's agent, EK, appeared on behalf of the ('the landlord'), and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

Rule 7.3 of the Rules of Procedure provides as follows:

### **7.3 Consequences of not attending the hearing**

If a party or their agent fails to attend the 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

The landlord testified that the tenant was personally served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "10 Day Notice"), on November 9, 2018, with an effective date of November 19, 2018. In accordance with section 88 of the Act, I find the tenant duly served with the 10 Day Notice on November 9, 2018.

The landlord testified that the hearing package was personally served to the tenant on December 9, 2018. In accordance with sections 88 and 89 of the Act, I find the tenant duly served with the hearing package on December 9, 2018.

Although the landlord applied for a monetary Order of \$1,110.00 in their initial claim, since they applied another \$2,220.00 in rent has become owing that was not included in their application. I have accepted the landlord's request to amend their original application from \$1,110.00 to

\$3,330.00 to reflect this additional unpaid rent that became owing by the time this hearing was convened.

### **Issue(s) to be Decided**

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

Is the landlord entitled to monetary compensation for unpaid rent?

### **Background and Evidence**

The landlord's agent testified regarding the following facts. This month-to-month tenancy began on December 6, 2017, with monthly rent in the amount of \$1,110.00 payable on the first day of each month. The landlord holds a security deposit in the amount of \$555.00 for this tenancy. The tenant still resides there.

The landlord issued the 10 Day Notice on November 9, 2018 for failure to pay rent as per the tenancy agreement and the *Act*. The landlord's agent confirmed in the hearing that the rent was due on the first of the month, and since the 10 Day Notice was issued the tenant has failed to pay rent for the months of November 2018 through January 2019. At the time of the hearing the tenant owed \$3,330.00 in outstanding rent.

### **Analysis**

The landlord provided undisputed evidence at this hearing, as the tenant did not attend. The tenant failed to pay the rent in full, within five days of receiving the 10 Day Notice. The tenant did not make 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 failure of the tenant to take either of the above actions within five days led to the end of this tenancy on November 19, 2018, effective date on the 10 Day Notice. In this case, this required the tenant and anyone on the premises to vacate the premises by November 19, 2018. I find that the landlord's 10 Day Notice complies with section 52 of the *Act*. As the tenant has not moved out, I find that the landlord is entitled to a two (2) day Order of Possession, pursuant to section 55 of the *Act* so the landlord may take full possession of the premises.

The landlord provided undisputed evidence that the tenant failed to pay the outstanding rent in the amount of \$3,330.00. Therefore, I find that the landlord is entitled to \$3,300.00 in outstanding rent for this tenancy.

The landlord continues to hold the tenant's security deposit of \$555.00. In accordance with the offsetting provisions of section 72 of the *Act*, I order the landlord to retain the tenant's security deposit in partial satisfaction of the monetary claim.

**Conclusion**

I grant an Order of Possession to the landlord effective **two (2) days after service on the tenant**. Should the tenant or anyone on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I issue a \$2,775.00 Monetary Order in favour of the landlord, which allows the landlord to recover unpaid rent, and also allows the landlord to retain the tenant's security deposit in partial satisfaction of the monetary claim.

<b>Item</b>	<b>Amount</b>
Unpaid Rent for November 2018-January 2019	\$3,330.00
Security Deposit and Pet Damage Deposit	-555.00
<b>Total Monetary Order</b>	<b>\$2,775.00</b>

The tenant must be served with this Order as soon as possible. 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: January 4, 2019

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Residential Tenancy Branch