



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding New Chelsea Society  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      FFL, MNRL, OPR

### Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act") for an order of possession, for a monetary claim of \$6,440.00 for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, and to recover the cost of their filing fee.

Two agents for the Landlord, S.V. and S.B. (the "Agents"), appeared at the teleconference hearing and gave affirmed testimony, but no one attended for the Tenant. I explained the hearing process to the Agents and gave them an opportunity to ask questions about the hearing process. During the hearing the Agents were given the opportunity to provide their evidence orally and to ask questions. I reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch ("RTB") Rules of Procedure; however, only the evidence relevant to the issues and findings in this matter are described in this decision.

### Preliminary and Procedural Matters

The Agents provided their email address and that of the Tenant at the outset of the hearing, and confirmed their understanding that the decision would be emailed to both Parties and the orders to the appropriate Party.

The Agents said that they served their Application and documentary evidence ("Application Package") on the Tenant via registered mail, and they provided a Canada Post tracking number for the Application Package. I checked the tracking number and it indicated that the Application Package was mailed on March 15, 2019, and delivered on March 19, 2019. I find that the Application Package was served in compliance with Section 89 of the Act on March 19, 2019.

Issue(s) to be Decided

- Is the Landlord entitled to an order of possession for unpaid rent?
- Is the Landlord entitled to a monetary order, and if so, in what amount?
- Is the Landlord entitled to recovery of the \$100.00 filing fee?

Background and Evidence

The Agents said that the tenancy began on April 1, 2001, with a monthly, subsidized rent of \$460.00, which was due on the first day of each month. The Agents said the current unsubsidized rent amount is \$1,380.00. The Agents said the Tenant did not pay a security or pet damage deposit for this tenancy.

The Agents said the Tenant is living in subsidized housing and must fill out a subsidy application form to see what rent will be for each upcoming year. The Agents said that the Tenant failed to do that, "so per our rules, she was charged our full rent of \$1,380.00."

The Agents said the Tenant's subsidy expired on August 31, 2018, and that since then she has only been paying the subsidized amount of \$460.00 per month, and not the full amount owing of \$1,380.00. The Agents said that since September 2018, the Tenant has owed the balance of \$920.00 per month, up to and including April 2019.

The Agents said that tenants are sent a letter about three or four months prior to the expiry of their subsidy, and a representative attends the residential property to help people complete the subsidy application. The Agents said the Tenant did not appear at this appointment, "so she was sent a follow up letter, and sent an invoice with the new rent she'd need to pay," if she did not arrange to sign the form.

The Agent S.B. said she has made repeated attempts to contact the Tenant to get this addressed and resolved; however, the only response they received from the Tenant was after the Application Package was served on her. S.B. said, "the Tenant contacted us by email letting us know her situation and that she was going to address it, but nothing has been done."

The Agent S.V. said, "one of the basic requirements of residents here is to fill out the form, and she hasn't done that, so our only recourse is to end the tenancy." The Agents said that in the email from the Tenant dated March 28, 2019, she acknowledged that the subsidy review is part of her tenancy agreement and that she has not done it.

The Agents submitted a copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the "10 Day Notice") that was dated and served on the Tenant on January 10, 2019. The Agents confirmed that the 10 Day Notice was served on the Tenant by posting it on the door of the rental unit.

Based on the testimony of the Agents and the documentary evidence, I find that the Tenant was deemed served with the 10 Day Notice on January 13, 2019, pursuant to section 90 of the Act. The 10 Day Notice informed the Tenant that the notice would be cancelled if the rent was paid within five days, and it also explained that the Tenant had five days in which to dispute the 10 Day Notice.

### Analysis

Based on the Agents' undisputed documentary evidence and the testimony provided during the hearing, and on the balance of probabilities, I find the following.

The Tenant has not paid the outstanding rent and did not apply to dispute the 10 Day Notice; I, find, therefore, that she is conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the 10 Day Notice.

I find that the Landlord is entitled to an order of possession, pursuant to section 55 of the Act, effective **two days** after service on the Tenant.

I find that the Landlord has established a total monetary claim of \$7,360.00, comprised of unpaid rent of \$920.00 per month for the eight months from September 2019 through April 2019. I also award the Landlord the \$100.00 filing fee paid for this Application.

### Conclusion

The Tenant failed to pay full rent for eight months prior to the hearing, and did not file an application to dispute the 10 Day Notice to end the tenancy. The Tenant is presumed under the law to have accepted that the tenancy ended on the effective date of the 10 Day Notice. The Landlord has established a monetary claim of \$7,360.00, plus recovery of the \$100.00 filing fee for this Application.

Pursuant to section 55 of the Act, I grant an order of possession to the Landlord effective **two days after service of this order** on the Tenant. The Landlord is provided with this order in the above terms and the Tenant must be served with this order as soon as possible. Should the Tenant fail to comply with it, this order may be filed in the

Supreme Court of British Columbia and enforced as an order of that Court.

I award the Landlord a monetary order under section 67 of the Act in the amount of \$7,460.00. This order must be served on the Tenant by the Landlord and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

This decision is final and binding on the Parties, unless otherwise provided under the Act, and 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: May 03, 2019

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Residential Tenancy Branch