



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute codes      OPR OPC MNR FF

### 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 and utilities pursuant to section 55;
- an order of possession for cause pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67;
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The hearing was conducted by conference call. The tenant did not attend this hearing, although I waited until 9:50 a.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 9:30 a.m. The landlord attended the hearing and was given a full opportunity to provide affirmed testimony, to present evidence and to make submissions.

The landlord testified that on March 30, 2019, a copy of the Application for Dispute Resolution and Notice of Hearing was served on the tenant by posting to the door of the rental unit.

Based on the above evidence, I am satisfied that the tenant was served with the Application for Dispute Resolution and Notice of Dispute Resolution Hearing pursuant to sections 89 & 90 of the Act. The hearing proceeded in the absence of the tenant.

### Preliminary Issue – Service (No posting of monetary applications)

The portions of the landlord's application requesting monetary compensation are dismissed with leave to reapply as the application for dispute resolution was not served on the tenant by a method permitted under section 89 of the Act. The landlord served

the application by posting it to the door of the rental premises. Section 89 of the Act permits posting as a method of service for the purposes of an application for an order of possession but not for a monetary order.

### Issues

Is the landlord entitled to an order of possession pursuant to a 10 Day Notice to End Tenancy for unpaid rent (the 10 Day Notice) or a One Month Notice to End Tenancy for Cause (the One Month Notice)?

### Background and Evidence

The tenancy began on November 1, 2017 and the current monthly rent is \$2000.00 payable on the 1<sup>st</sup> day of each month. The landlord testified the rental unit is living accommodation above a commercial unit. The landlord testified that the address for the rental unit as per this application and Notices to End Tenancy differs from the address reflected in the tenancy agreement as the latter is the address for the entire building.

The landlord testified that on February 6, 2019 she served the tenant with the 10 Day Notice, dated February 6, 2019, by posting a copy to the door of the rental premises. The landlord testified that her husband subsequently personally served the tenant with the One Month Notice dated February 19, 2019 on this same date.

The landlord testified that the tenant did not pay the outstanding amount of rent as indicated in the 10 Day Notice within five days of service of the Notice.

### Analysis

Section 46 of the Act requires that upon receipt of a Notice to End Tenancy for non-payment of rent the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If, as in the present case, the tenant does neither of these two things, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice.

Based upon the undisputed testimony of the landlord I am satisfied that the tenant was deemed served with the 10 Day Notice on February 9, 2019, three days after its posting, pursuant to sections 88 & 90 of the Act.

I find that the Notice issued by the landlord complies with the requirements of Section 52 of the Act, accordingly, the landlord is granted an Order of Possession pursuant to section 55 of the Act.

As this tenancy has ended pursuant to the 10 Day Notice dated February 6, 2019, I make no findings or orders in relation to the One Month Notice dated February 19, 2019.

### Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant. Should the tenant(s) 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's application for monetary compensation for unpaid rent is dismissed with leave to reapply.

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: May 13, 2019

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Residential Tenancy Branch