



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding GREATER VICTORIA HOUSING SOCIETY  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR OPC MNRL-S FFL

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67; and
- authorization to recover the filing fee from the tenant pursuant to section 72.

The tenant did not attend this hearing, which lasted approximately 10 minutes. The corporate landlord was represented by its agent YB (the "landlord") who was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord testified that a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "10 Day Notice"), dated February 5, 2019 was served on the tenant by registered mail sent on that date. The landlord provided a Canada Post tracking number as evidence of service. In accordance with sections 88 and 90 of the *Act*, I find that the tenant was deemed served with the landlord's 10 Day Notice on February 10, 2019, five days after mailing.

The landlord testified that the landlord's application for dispute resolution dated April 11, 2019 was sent to the tenant by registered mail on April 15, 2019. The landlord provided a Canada Post tracking number as evidence. In accordance with sections 88, 89 and 90 of the *Act*, I find that the tenant was deemed served with the landlord's application package on April 20, 2019, five days after its mailing.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?  
Is the landlord entitled to a monetary award as claimed?  
Is the landlord entitled to recover the filing fee from the tenant?

Background and Evidence

The landlord provided the following evidence. This periodic tenancy began in March, 2014. The current monthly rent is \$338.00 payable on the 1<sup>st</sup> of the month. A security deposit of \$332.50 was collected at the start of the tenancy and is still held by the landlord.

The tenancy was in arrears by \$200.00 as at the date of the 10 Day Notice. As of the date of the hearing, May 9, 2019 the tenancy is in arrears by \$212.00. Any payment received from the tenant has been noted as being accepted for use and occupancy only and did not reinstate the tenancy.

Analysis

In accordance with subsection 46(4) of the *Act*, a tenant must either pay the overdue rent or file an application for dispute resolution within five days of receiving the 10 Day Notice. In this case, the tenant is deemed to have received the 10 Day Notice on February 10, 2019. I accept the evidence of the landlord that the tenant has not made payment in full nor have they filed an application to dispute the notice within 5 days of February 10, 2019.

Accordingly, 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, February 20, 2019. Therefore, I find that the landlord is entitled to an Order of Possession, pursuant to section 55 of the *Act*. As the effective date has passed I issue an Order of Possession effective 2 days after service.

I accept the landlord's undisputed evidence that the total amount of arrears for this tenancy is \$212.00. I issue a monetary award for unpaid rent of \$212.00 as at May 9, 2019, the date of the hearing, pursuant to section 67 of the *Act*.

As the landlord's application was successful, the landlord is also entitled to recovery of the \$100.00 filing fee for the cost of this application.

In accordance with sections 38 and the offsetting provisions of 72 of the *Act*, I allow the landlord to retain \$312.00 from the tenant's security deposit of \$332.50 in full satisfaction of the monetary award issued in the landlord's favour. The security deposit for this tenancy is reduced to \$20.50 accordingly.

### Conclusion

I grant an Order of Possession to the landlords effective **2 days after service on the tenants**. Should the tenants 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.

The landlord is authorized to deduct \$312.00 from the security deposit for this tenancy. The security deposit is reduced to \$20.50.

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 9, 2019

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Residential Tenancy Branch