



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 330127 BC LTD  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPU, MNRL, FFL

### Introduction

On May 29, 2019, the Landlord made an Application for Dispute Resolution seeking an Order of Possession for Unpaid Utilities pursuant to Section 46 of the *Act*, seeking a Monetary Order for compensation pursuant to Section 67 of the *Act*, and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

On June 12, 2019, the Landlord made an amendment to their Application seeking to correct the amount of compensation sought.

H.P. attended the hearing as an agent for the Landlord; however, the Tenant did not make an appearance. All in attendance provided a solemn affirmation.

H.P. advised that she served the Tenant the Notice of Hearing and evidence package by hand on June 4, 2019 with a witness. She also provided a proof of service document to confirm service. Based on this undisputed testimony, as these documents were served in accordance with Sections 89 and 90 of the *Act*, I am satisfied that the Tenant was served with the Notice of Hearing and evidence package.

She also advised that she served the Tenant the Amendment by hand on June 12, 2019 with a witness. She provided a proof of service document to confirm service. Based on this undisputed testimony, as the Amendment was served in accordance with Section 88 of the *Act*, I am satisfied that the Tenant was served with the Amendment.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issue(s) to be Decided

- Is the Landlord entitled to an Order of Possession for unpaid utilities?
- Is the Landlord entitled to a Monetary Order for unpaid rent?
- Is the Landlord entitled to recover the filing fee?

### Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

H.P. advised that the tenancy started on July 1, 2015 and that rent was established at \$675.00 per month, due on the first day of each month. She stated that a security deposit of \$337.50 was paid.

She stated that the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice") was served to the Tenant by slipping it under her door on May 10, 2019. Despite requesting an Order of Possession for unpaid utilities, she advised that the Notice indicated that \$675.00 was for rent outstanding on May 2, 2019. The Notice also indicated that the effective end date of the tenancy was May 20, 2019.

### Analysis

Upon consideration of the evidence before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this decision are below.

I have reviewed the Landlord's 10 Day Notice to End Tenancy for Unpaid Rent to ensure that the Landlord has complied with the requirements as to the form and content of Section 52 of the *Act*. I am satisfied that the Notice meets all of the requirements of Section 52.

Section 88 of the *Act* lists all the following ways a document may be served by a party:

- by leaving a copy with the person;
- if the person is a landlord, by leaving a copy with an agent of the landlord;
- by sending a copy by ordinary mail or registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;
- if the person is a tenant, by sending a copy by ordinary mail or registered mail to a forwarding address provided by the tenant;
- by leaving a copy at the person's residence with an adult who apparently resides with the person;
- by leaving a copy in a mailbox or mail slot for the address at which the person resides or, if the person is a landlord, for the address at which the person carries on business as a landlord;
- by attaching a copy to a door or other conspicuous place at the address at which the person resides or, if the person is a landlord, at the address at which the person carries on business as a landlord;
- by transmitting a copy to a fax number provided as an address for service by the person to be served;

- as ordered by the director under section 71 (1) [*director's orders: delivery and service of documents*];
- by any other means of service prescribed in the regulations.

While H.P. stated that she had proof from a witness confirming that she put this Notice under the Tenant's door, serving the Notice in this manner is not a method of service approved under the *Act*. Based on H.P.'s affirmed testimony with respect to service of the Notice, as this was not an appropriate method of service in accordance with Section 88 of the *Act*, I am not satisfied that the Tenant was served with the Notice. As such, the Notice is cancelled and of no force or effect. As well, I dismiss the Landlord's Application without leave to reapply on this Notice.

As the Landlord was unsuccessful in this application, I find that the Landlord is not entitled to recover the \$100.00 filing fee paid for this Application.

### Conclusion

I hereby order that the 10 Day Notice to End Tenancy for Unpaid Rent of May 10, 2019 to be cancelled and of no force or effect. As well, I dismiss the Landlord's Application without leave to reapply on this Notice.

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: July 16, 2019

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Residential Tenancy Branch