



# Dispute Resolution Services

Page: 1

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;
- a monetary order for unpaid rent pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72.

While the landlord attended the hearing by way of conference call, the tenant did not. The landlord was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed that the landlord and I were the only ones who had called into this teleconference.

The landlord testified that the tenant was served by way of Registered Mail with the landlord's application for dispute resolution hearing package and evidence on July 4, 2019. In accordance with sections 88, 89, and 90 the *Act*, I find that the tenant was deemed served with the landlord's application and evidence on July 9, 2019, five days after its registered mailing.

The landlord testified that the tenant was served with the landlord's 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated June 13, 2019 ("10 Day Notice") on June 13, 2019 by way of registered mail. The landlord provided proof of service in their evidentiary package. 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 June 18, 2019, five days after mailing.

Although the landlord applied for a monetary order of \$900.00 in their initial claim, since they applied another \$450.00 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 \$900.00 to \$1,350.00 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?

Is the landlord entitled to recover their filing fee for this application?

### **Background and Evidence**

The landlord testified regarding the following facts. This month-to-month tenancy began on December 14, 2018, with monthly rent in the amount of \$900.00 payable on the first day of each month. The landlord holds a security deposit in the amount of \$450.00 for this tenancy. The tenant still resides there.

The landlord issued the 10 Day Notice on June 13, 2019, indicating an effective move-out date of June 28, 2019 as the tenant failed to pay the June 2019 rent. Since the 10 Day Notice was issued on June 13, 2019, the tenant had paid rent for July 2019 in the amount of \$900.00, and made a \$450.00 payment towards the June 2019 rent on July 19, 2019. The landlord testified that the tenant did send him payment on August 6, 2019 in the amount of \$450.00 for the remaining June 2019 rent, as well as August 2019 rent on August 21, 2019, which were not deposited yet. At the time of the hearing the tenant owed \$1,350.00 in rent, which the landlord testified was late, and not yet deposited by him yet.

### **Analysis**

The landlord provided undisputed evidence at this hearing, as the tenant did not attend. The 10 Day Notice was deemed to have been received on June 18, 2019 by the tenant. Although the tenant did eventually pay the landlord the outstanding rent, the tenant failed to pay the outstanding rent in full, within five days of June 18, 2019, nor did the

tenant file an application pursuant to section 46(4) of the *Act* within five days of June 18, 2019. 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 June 28, 2019, the effective date on the 10 Day Notice. In this case, this required the tenant and anyone on the premises to vacate the premises by June 28, 2019. 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 testified that the tenant had sent him payment in the amount of \$450.00 on July 19, 2019 for half of June 2019 rent. The landlord testified that on August 6, 2019 another \$450.00 payment was sent for June 2019 rent, and \$900.00 was sent on August 21, 2019 for August 2019 rent. The landlord testified that these last two payments totalling \$1,350.00 have not yet been deposited by him as he was concerned that the payments were late. As I am unable to verify whether the landlord is still able to deposit these payments, I will issue a monetary order to the landlord for the outstanding rent up to August 2019 in the case that the landlord is unable to deposit these payments.

The landlord continues to hold the tenant's security deposit of \$450.00. 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.

As the landlord was successful in their application, I find that the landlord is entitled to recover the filing fee for this application.

### **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 \$1,000.00 Monetary Order in favour of the landlord, which allows the landlord to recover the outstanding rent up to August 2019 in the case that he is no longer able to deposit the payments sent by the tenant, as well as recover the filing fee for this

application. The amount of the monetary order is reduced by \$450.00 as I allow the landlord to retain the tenant's security deposit in satisfaction of the monetary claim.

Item	Amount
Rent for June 2019	\$450.00
Rent for August 2019	900.00
Recovery of Filing Fee for this Application	100.00
Security Deposit	-450.00
<b>Total Monetary Order</b>	<b>\$1,000.00</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: August 29, 2019

---

Residential Tenancy Branch