



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute codes      OPL MNR

### Introduction

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

- an order of possession for landlord's use of property pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67.

The hearing was conducted by conference call. The tenant did not attend this hearing, although I waited until 11:20 a.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 11:00 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 September 11, 2019, a copy of the landlord's Application for Dispute Resolution and Notice of Hearing was sent to the tenant by registered mail. Subsequently, on October 2, 2019 the landlord sent a copy of its amended application also by registered mail. Registered mail receipts and tracking numbers were provided in support of service.

Based on the above evidence, I am satisfied that the tenant was served with the landlord's original and amended 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 – Amendment to Landlord's Application

Paragraph 64(3)(c) of the Act allows me to amend an application for dispute resolution.

At the hearing, the landlord testified that the tenant had not yet vacated the rental unit and therefore asked to amend her claim to include outstanding rent for November 2019. Although the tenant did not have prior notice of this claim, I find that the tenant should reasonably have known that the landlord would suffer this loss if the tenant

neither paid rent nor vacated the rental unit. I therefore allowed the landlord's request for an amendment.

### Issues

Is the landlord entitled to an order of possession for landlord's use of property (the "Two Month Notice")?

Is the landlord entitled to a monetary order for unpaid rent?

### Background and Evidence

The tenancy originally began on September 15, 2013 and was recently renewed in May 2019. The monthly rent is \$1200.00 payable on the 1<sup>st</sup> day of each month.

The landlord testified that on June 29, 2019 the tenant was personally served with the Two Month Notice. The effective date of the Two Month Notice was August 31, 2019. A Proof of Service form of the Two Month Notice was provided on file which was signed by the tenant acknowledging receipt.

The landlord's amended monetary claim is for outstanding rent in the amount of \$4200.00. The landlord testified that this includes unpaid rent of \$1200.00 for August 2019, \$1200.00 for September 2019, \$600.00 for October 2019 and \$1200.00 for November 2019.

### Analysis

I am satisfied that the tenant was personally served with the Two Month Notice on June 29, 2019. I find the Two Month Notice complies with the form and content requirements of section 52 of the Act.

Pursuant to section 49 of the *Act*, the tenant may make a dispute application within fifteen days of receiving the Two Month Notice. If, as in the present case, the tenant does not make an application for dispute within fifteen days, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice, August 31, 2019.

Therefore, I find that the landlord is entitled to an Order of Possession pursuant to section 55 of the Act.

Section 26 of the Act requires that a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

I accept the landlord's uncontested evidence and claim for outstanding rent of \$4200.00.

### Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant. Should the tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

Pursuant to section 67 of the *Act*, I grant the landlord a Monetary Order in the amount of \$4200.00. 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: November 05, 2019

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Residential Tenancy Branch