



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 1082525 BC LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MNRL-S, FFL

### Introduction

This hearing was convened as a result of the landlord's application for dispute resolution under the Residential Tenancy Act (Act). The landlord applied an order of possession of the rental unit pursuant to a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (Notice) issued by the landlord, a monetary order for unpaid rent, for authority to retain the tenant's security deposit, and for recovery of the filing fee paid for this application.

The landlord's agent (landlord) attended the telephone conference call hearing; the tenant did not attend.

The landlord testified that they served the tenant with their Application for Dispute Resolution and Notice of Hearing by registered mail on November 2, 2019. The landlord supplied testimony of the tracking number of the registered mail, which is listed on the style of cause page of this Decision.

Based upon the submissions of the landlord, I accept the tenant was served notice of this hearing and the landlord's application in a manner complying with section 89(1) of the Residential Tenancy Act and the hearing proceeded in the tenant's absence.

The landlord was provided the opportunity to present his evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and documentary evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

### Issue(s) to be Decided

Is the landlord entitled to an order of possession for the rental unit due to unpaid rent, to retain the tenant's security deposit, further monetary compensation, and for recovery of the filing fee paid for this application?

### Background and Evidence

The landlord said there was no written tenancy agreement and that he inherited the tenant when the company bought the building.

The landlord submitted that the monthly rent was \$637.00 and that the tenant paid a security deposit of \$300.00.

The landlord gave evidence that on October 12, 2019, the tenant was served with the Notice, by attaching it to the tenants' door, listing unpaid rent of \$637.00 as of October 1, 2019. The effective vacancy date listed on the Notice was October 22, 2019.

The Notice sets out for the benefit of the tenant that the Notice would be cancelled if the rent was paid within five (5) days. The Notice also explained that alternatively the tenant had five days to dispute the Notice by making an application for dispute resolution.

The landlord stated that he was not sure if the tenant was still alive as he understood that the tenant had serious heart issues. The landlord also said that the tenant's son moved into the rental unit sometime in the summer and made three rent payments; however, neither the tenant nor his son paid the rent for October or November 2019.

The landlord said although he was not sure if the tenant was still alive, he understood that the tenant abandoned the rental unit, without notice to him. Out of an abundance of caution, as he has not received notice from the tenant, the landlord still requested an order of possession of the rental unit.

### Analysis

Under section 26 of the Act, a tenant is required to pay rent in accordance with the terms of the tenancy agreement and is not permitted to withhold rent without the legal right to do so. A legal right may include the landlord's consent for deduction;

authorization from an Arbitrator or expenditures incurred to make an “emergency repair”, as defined by the Act.

When a tenant fails to pay rent due pursuant to the terms of the tenancy agreement, the landlord may serve the tenant a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, as was the case here.

I have no evidence before me that the tenant applied to dispute the Notice.

As such, I find the landlord submitted sufficient, unopposed evidence to prove that the tenant was served the Notice, owed the rent listed, did not pay the outstanding rent or file an application for dispute resolution in dispute of the Notice within five days of service. I therefore find the tenant is therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

I therefore find that the landlord is entitled to an order of possession for the rental unit pursuant to section 55(2) of the Act, effective two days after service of the order upon the tenant.

As such, I grant the landlord a final, legally binding order of possession for the rental unit, which is included with the landlord’s Decision. The tenant must be served the order of possession to be enforceable.

As to the landlord’s monetary claim, I also find that the landlord submitted sufficient, unopposed evidence to prove that the tenant owed the amount of \$637.00 in unpaid rent through October 2019, due under the tenancy agreement. I grant the landlord a monetary award in this amount, pursuant to section 67 of the Act.

I also grant the landlord recovery of their filing fee of \$100.00, pursuant to section 72(1) of the Act.

Due to the above, I find the landlord is entitled to a total monetary award of \$737.00, comprised of outstanding rent of \$637.00 through October 2019, and the \$100.00 filing fee paid by the landlord for this application.

I direct the landlord to retain the tenant’s security deposit of \$300.00 in partial satisfaction of their monetary award of \$737.00 and grant the landlord a monetary order for the balance due, in the amount of \$437.00.

The monetary order is included with the landlord's Decision. The tenant must be served the order to be enforceable.

Conclusion

The landlord's application for an order of possession for the rental unit and a monetary order for unpaid rent has been granted.

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: December 16, 2019

---

Residential Tenancy Branch