



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

### Dispute Codes

FFL MNRL OPR

### Introduction

This hearing 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 from the tenant pursuant to section 72.

The tenant did not attend this hearing, which lasted approximately 10 minutes. The landlord attended and 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 (the "10 Day Notice"), dated October 2, 2019 was served on the tenant in person on that same day. I find that the tenant was served with the landlord's 10 Day Notice on October 2, 2019, in accordance with section 88 of the *Act*.

The landlord testified that the landlord's application for dispute resolution dated October 10, 2019 was served personally on the tenant on that date. I find that the landlord's application was served in accordance with section 89 of the *Act* on October 10, 2019.

At the outset of the hearing, the landlord made an application requesting to amend the monetary amount of the claim sought. The landlord indicated that since the application was filed additional rent has come due Pursuant to section 64(3)(c) of the *Act* and Rule 4.2 of the Rules of Procedure, as additional rent coming due is reasonably foreseeable,

I amend the landlord's Application to increase the landlord's monetary claim from \$200.00 to \$1,400.00.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent?

Is the landlord entitled to monetary compensation as claimed?

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

Background and Evidence

This periodic tenancy began in November, 2018. The monthly rent is \$1,100.00 payable on the first of each month. No security deposit was collected.

The landlord testified that at the time the 10 Day Notice was issued the tenancy was in arrears by \$200.00, the amount initially sought in the 10 Day Notice. The landlord testified that the tenant did not make payment of the arrears within 5 days of issuing the 10 Day Notice. The landlord gave evidence that the tenant subsequently made some payments which were accepted for use and occupancy only but that there is an arrear of \$1,400.00 for this tenancy as at the date of the hearing.

Analysis

I find that the tenant was obligated to pay the monthly rent in the amount of \$200.00. I accept the evidence before me that the tenant failed to pay the full rent due within the 5 days of service granted under section 46(4) of the *Act* nor did the tenant dispute the 10 Day Notice within that 5 day period. 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 effective date of the 10 Day Notice, October 12, 2019. Therefore, I find that the landlords are entitled to an Order of Possession, pursuant to section 55 of the *Act*.

I accept the landlord's undisputed evidence that the total amount of arrears for this tenancy is \$1,400.00. I issue a monetary award for unpaid rent owing of \$1,400.00 as at December 6, 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.

Conclusion

I grant an Order of Possession to the landlord effective **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 monetary order in the landlord's favour in the amount of \$1,500.00 which allows the landlords to recover unpaid rent and the filing fee for their application.

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: December 6, 2019

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Residential Tenancy Branch