



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding WOODSMERE HOLDINGS  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MNR, FF, CNR

### Introduction

This hearing dealt with applications from both the landlord and the tenants under the *Residential Tenancy Act* (the *Act*). The landlord applied for:

- an order of possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67;
- authorization to recover his/her/their/its filing fee for this application from the tenant pursuant to section 72.

The tenant applied for:

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46.

At the outset, the landlord's application was clarified in that the named landlord is in fact an agent of the landlord. The actual landlord is a company as stated on both the 10 Day Notice and the signed tenancy agreement. As such, the landlord's application shall be amended to reflect this change.

The landlord's agent (the landlord) attended the hearing and provided undisputed affirmed testimony. The tenant did not attend. The landlord stated that the tenant was served with the notice of hearing package and the submitted documentary evidence in person on November 20, 2019. The landlord's witness/agent, N.K. attended and provided undisputed affirmed testimony in confirmation.

The landlord provided undisputed testimony that he was not served with the tenant's application for dispute and was only aware of the issue after being sent an email notifying him of evidence submission deadlines.

I accept the undisputed evidence of the landlord and find that the tenant was properly served as per sections 88 and 89 of the Act. After 22 minutes the hearing was completed, the tenant's application was dismissed for lack of service. The tenant is deemed served with the landlord's application for dispute as per section 90 of the Act. The hearing proceeded on the landlord's application only.

### Issue(s) to be Decided

Is the landlord entitled to an order of possession for unpaid rent?

Is the landlord entitled to a monetary order for unpaid rent and recovery of the filing fee?

### Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the both the tenant's claim and the landlord's cross claim and my findings around each are set out below.

This tenancy began on September 1, 2019 on a fixed term tenancy ending on August 31, 2020 and then thereafter as per the submitted copy of the signed tenancy agreement dated August 22, 2019.

The landlord provided undisputed evidence that the tenant was served with a 10 Day Notice dated November 4, 2019 by posting it to the rental unit door on November 4, 2019. The landlord also submitted a copy of a completed proof of service of the 10 Day Notice.

The 10 Day Notice states in part that the tenant failed to pay rent of \$1,350.60 that was due on November 1, 2019 and provides for an effective end of tenancy date of November 14, 2019.

The landlord claims that although the monthly rent is \$1,350.00, the extra balance owing of \$0.60 is due to two partial payments made by the tenant previously that resulted in that additional amount. The landlord also stated that as of the date of this hearing the tenant has failed to pay any rent for November, December and January

since the 10 Day Notice was served. The landlord seeks the additional unpaid rent for these months.

The landlord submitted in support of these claims:

Signed Tenancy Agreement dated August 22, 2019  
Completed 10 Day Notice dated November 4, 2019  
Completed Proof of Service Document re:10 Day Notice dated November 4, 2019

### Analysis

Pursuant to section 46 of the Act, a landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end tenancy effective on a date that is not earlier than ten days after the date the tenant receives the notice.

I accept the undisputed evidence of the landlord and find that the tenant was properly served with the 10 Day Notice dated November 4, 2019 by posting it to the rental unit door. The landlord submitted in confirmation of service an undisputed completed proof of service document.

The landlord provided undisputed affirmed evidence that the tenant failed to pay rent owed as per the signed tenancy agreement and clarified the additional \$0.60 amount. The landlord also stated that no further payments have been made and that the tenant still occupies the rental unit as of the date of this hearing.

Based upon the above noted evidence, I find that the landlord has established a claim for an order of possession for unpaid rent. As the effective end of tenancy date has now passed, I grant the landlord an order of possession to be effective 2 days after the tenant is served.

On the landlord's monetary claim, I accept the undisputed evidence of the landlord that the tenant failed to pay rent as per the 10 Day Notice dated November 4, 2019. I also accept the landlord's evidence that the tenant continues to occupy the rental unit and has not paid any rent since the 10 Day Notice dated November 4, 2019. The landlord has established a claim for unpaid rent of \$4,050.60.

The landlord having been successful is also entitled to recovery of the \$100.00 filing fee.

Conclusion

The landlord is granted an order of possession.

The landlord is granted a monetary order for \$4,150.60.

These orders must be served upon the tenant. Should the tenant fail to comply with these orders, the orders may be filed in the Supreme Court of British Columbia and the Small Claims Division of the Provincial Court of British Columbia and enforced as orders of those courts.

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: January 07, 2020

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Residential Tenancy Branch