



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, FF

### Introduction

This matter proceeded by way of an *ex parte* Direct Request Proceeding, pursuant to section 55(4) of the *Residential Tenancy Act* (the “*Act*”) and dealt with an Application for Dispute Resolution by the landlord for an Order of Possession and a Monetary Order for unpaid rent.

The landlord provided a copy of a Canada Post Customer Receipt containing the Tracking Number to confirm they served the tenant with Notice of Direct Request Proceeding on January 22, 2020. Based on the written submissions of the landlord and in accordance with sections 89 and 90 of the *Act*, I find that the tenant is deemed to have received the Direct Request Proceeding documents on January 27, 2020, the fifth day after their registered mailing.

### Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for unpaid rent; to a monetary order for unpaid rent; and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 46, 55, 67, and 72 of the *Act*.

### Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of a residential tenancy agreement which was signed by the parties on January 31, 2019, indicating a monthly rent of \$3,997.00, due on the first day of each month for a tenancy commencing on February 1, 2019;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the Notice) dated January 9, 2020, with a stated effective vacancy date of January 22, 2020, for \$3,997.00 in unpaid rent. The Notice states that the tenant had five days from the date of service to pay the rent in full or apply for Dispute Resolution or the tenancy would end;

- A copy of a Proof of Service Notice to End Tenancy form which indicates that the Notice was posted to the tenant's door on January 9, 2020 and that its service was witnessed by a third party;
- A copy of a receipt dated October 1, 2017, for \$1,700.00 of rent, paid by the tenant, which the landlord has indicated is "for use and occupancy only"; and
- A Monetary Order Worksheet showing the rent owing and paid during the relevant portion of this tenancy.

### Analysis

I have reviewed all documentary evidence and in accordance with sections 88 and 90 of the *Act*, I find that the tenant was deemed served with the 10 Day Notice on January 12, 2020, three days after its posting.

I find that the tenant was obligated to pay the monthly rent in the amount of \$3,997.00, as per the tenancy agreement.

I accept the evidence before me that the tenant has failed to pay the rent owed in full within the five days granted under section 46(4) of the *Act* and did not dispute the 10 Day Notice within that five-day period.

Based on the foregoing, 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, January 22, 2020.

Therefore, I find that the landlord is entitled to an Order of Possession for unpaid rent as of January 22, 2020.

I also find the landlord is entitled to a monetary award for rent in the amount of \$3,997.00 for unpaid rent and an award of \$100.00 to recover the filing fee of this Application.

### Conclusion

I find the landlord is entitled to an order of possession effective **two days after service on the tenant**. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

I find the landlord is entitled to monetary compensation pursuant to Section 67 and I grant a monetary order in the amount of **\$4,097.00** comprised of \$3,997.00 rent owed and the \$100.00 fee paid by the landlord for this application.

This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be 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: February 03, 2020

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Residential Tenancy Branch