



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

### Dispute Codes

FFL MNDCL-S MNRL-S OPR

### Introduction

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

- an Order of Possession pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67; and
- authorization to recover the filing fee from the tenant pursuant to section 72.

The tenant did not attend this hearing which lasted approximately 15 minutes. The teleconference line remained open for the duration of the hearing and the Notice of Hearing was confirmed to contain the correct hearing information. The landlord was assisted by their family member and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord testified that they served the 10 Day Notice on the tenant by posting on the rental unit door on December 2, 2019. Based on the evidence I find that the tenant is deemed served with the 10 Day Notice on December 5, 2019, three days after posting, in accordance with sections 88 and 90 of the *Act*.

The landlord testified that they served the tenant with the application for dispute resolution dated December 16, 2019 and evidence on that same date personally. Based on the evidence I find that the tenant was served with the landlord's materials on that date in accordance with sections 88 and 89 of the *Act*.

### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to a monetary award as claimed?

Is the landlord entitled to recover the filing fee from the tenant?

### Background and Evidence

This periodic tenancy began in February 2018. The current monthly rent is \$1,230.00 payable on the first of each month. A security deposit of \$600.00 was collected at the start of the tenancy and is still held by the landlord.

The landlord testified that the tenant failed to pay rent for December 2019 and a 10 Day Notice to End Tenancy for Unpaid Rent was issued dated December 2, 2019 indicating an arrear of \$1,230.00. The 10 Day Notice was posted on the rental unit door on that date. The tenant failed to pay the full amount of rent owing nor did they file an application to dispute the notice.

The landlord filed their application for dispute resolution on December 16, 2019. The landlord delivered the hearing package including notice of hearing and evidence on the tenant personally on that same date.

The landlord testified that as of the date of the hearing the total arrear for this tenancy is \$2,460.00. The landlord gave evidence that while they have accepted some payment from the tenant for the rental arrears they have clearly indicated that the payments did not reinstate the tenancy both verbally and on written receipts issued.

### Analysis

I find that the tenant was obligated to pay the monthly rent in the amount of \$1,230.00. I accept the evidence before me that the tenant failed to pay the rent and a 10 Day Notice was issued. I further find that the tenant failed to pay the full rent due within the five 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 corrected effective date of the 10 Day Notice, December 15, 2019. Therefore, I find that the landlord is entitled to an Order of Possession, pursuant to section 55 of the *Act*. As the effective date has passed I issue an Order enforceable two days after service.

I accept the landlord's undisputed evidence that the total amount of arrears for this tenancy is \$2,460.00. I issue a monetary award for unpaid rent of \$2,460.00 as at February 18, 2020, 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.

In accordance with sections 38 and the offsetting provisions of 72 of the *Act*, I allow the landlord to retain the tenant's \$600.00 security deposit in partial satisfaction of the monetary award issued in the landlord's favour.

### Conclusion

I grant an Order of Possession to the landlords effective **2 days after service on the tenants**. Should the tenants 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 \$1,960.00, allowing the landlord to recover the rental arrear and filing fees and retain the deposit for this tenancy.

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: February 18, 2020

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Residential Tenancy Branch