



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Pacific Asset Management Corp  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes

OPRM-DR, FFL

### Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (the *Act*), I was designated to hear an application regarding the above-noted tenancy. The landlord applied for:

- an order of possession for unpaid rent, pursuant to sections 46 and 55 of the *Act*;
- a monetary order for unpaid rent, pursuant to sections 26 and 67 of the *Act*; and
- authorization to recover the filing fee for this application pursuant to section 72.

Although I left the connection open until 11:28 A.M. to enable the tenant to call into this teleconference scheduled for 11:00 A.M., the tenant did not attend this hearing. The landlord's representative RR (the landlord) attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

The landlord affirmed he served the tenant the Notice of Hearing, the evidence and the interim decision (the materials) by registered mail sent on March 19, 2020. The tracking number is on the cover page of this decision.

I find the tenant was properly served in accordance with section 89(1)(c) of the *Act*. The tenant is deemed to have received the materials on March 24, 2020, in accordance with section 90 (a) of the *Act*.

### Preliminary Issue – Amendment of monetary claim

At the hearing the landlord sought to amend his application for \$1,000.00 in unpaid rent to include an additional \$2,000.00 for the unpaid rent of March and April 2020.

The increase in the landlord's monetary claim for unpaid rent should have been reasonably anticipated by the tenant. Therefore, pursuant to section 4.2 of the Rules of Procedure and section 64 of the Act, I amend the landlord's monetary claim for unpaid rent to \$3,000.00.

### Issues to be Decided

Is the landlord entitled to:

- obtain an order of possession, pursuant to sections 46 and 55 of the Act?
- a monetary order for unpaid rent pursuant to sections 26 and 67 of the Act?
- authorization to recover the filing fee for this application from the tenant?

### Background and Evidence

While I have considered the documentary evidence and the testimony of the landlord, not all details of his submissions and arguments are reproduced here. The relevant and important aspects of the landlord's claim and my findings are set out below.

The landlord testified the tenancy started on December 01, 2018. Monthly rent is \$1,000.00 and is due on the first day of the month. The landlord still holds a \$500.00 security deposit collected at the outset of the tenancy.

A tenancy agreement dated December 06, 2018 was submitted into evidence. Only the landlord signed it. The landlord affirmed the rental unit was purchased in April 2019 and the previous landlord was the one responsible for writing the tenancy agreement.

The landlord submitted into evidence a letter sent to the tenant on March 19, 2019, providing the name and address of the new landlord.

The landlord submitted a copy of the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the Notice), dated February 04, 2020, listing \$1,000.00 in unpaid rent. The effective date is February 20, 2020. The Notice was served by registered mail sent on February 05, 2020. The tracking number is on the cover page of this decision.

The landlord affirmed the tenant has not submitted any rent payment since January 01, 2020.

The landlord affirmed the tenant continues to reside at the rental unit and is in arrears for \$3,000.00 for the rent of February, March and April 2020.

A Direct Request Worksheet (RTB form 46) was provided. A Proof of Service of Notice to End Tenancy form (RTB-34) was submitted into evidence.

### Analysis

The Notice is dated February 04, 2020 and was served to the tenant by registered mail sent on February 05, 2020. The tenant is deemed served with the Notice on February 10, 2020, five days after it was mailed, in accordance with section 88(c) and 90 (a) of the Act.

I accept the landlord's uncontested testimony that the tenant must pay monthly rent of \$1,000.00 on the first day of the month and is in arrears for \$3,000.00 for February, March and April 2020. Section 26 of the Act requires that a tenant pay rent when it is due under the tenancy agreement.

I find the Notice is in accordance with section 52 of the Act, as it is signed by the landlord, gives the address of the rental unit, states the effective date and is in the approved form.

The tenant has not disputed the Notice and is conclusively presumed under sections 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice, February 20, 2020.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee.

As explained in section D.2 of Policy Guideline #17, the monetary amount or cost awarded to a landlord may be deducted from the security deposit held by the landlord. I order the landlord to retain the \$500.00 security deposit.

In summary:

February, March and April's rent	\$3,000.00
Filing fee	\$100.00
Sub-total	\$3,100.00
Security deposit	-\$500.00
<b>Monetary award</b>	<b>\$2,600.00</b>

I warn the tenant that he may be liable for any costs the landlord incur to enforce the order of possession.

### Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this order** on the tenant. Should the tenant fail to comply with this order, this order may be filed and enforced as an order of the Supreme Court of British Columbia.

Pursuant to section 67 of the *Act*, I authorize the landlord to retain the \$500.00 security deposit and grant the landlord a Monetary Order in the amount of \$2,600.00.

The landlord is provided with this order in the above terms and 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: April 22, 2020

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Residential Tenancy Branch