



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR-DR, OPRM-DR, FFL

### Introduction

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

- an Order of Possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent and for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67; and
- authorization to recover his filing fee for this application from the tenants pursuant to section 72.

The tenants did not attend this hearing, although I waited until 11:10 a.m. in order to enable them to connect with this teleconference hearing scheduled for 11:00 a.m. The landlord attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord entered written and oral evidence that the 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) on the tenants' door on March 4, 2020. I am satisfied that the landlord served this Notice to the tenant in accordance with section 88 of the *Act*. In accordance with section 90 of the *Act*, the 10 Day Notice was deemed served to the tenant on March 7, 2020, the third day after its posting.

The landlord testified that the landlord filed an application through the Direct Request Process, however the adjudicator deemed it necessary that the matter be heard by way of participatory hearing. The landlord gave written evidence and sworn oral testimony that copies of the landlord's dispute resolution hearing package was sent to the tenant by registered mail on March 30, 2020. The landlord entered into written evidence Canada Post Tracking Numbers, showing that the tenant signed for and accepted the package on March 31, 2020. In accordance with sections 89 of the *Act*, I am satisfied

that the landlord has served the tenant, accordingly; the hearing proceeded and completed in their absence.

#### Issues(s) to be Decided

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

Is the landlord entitled to a monetary award for unpaid rent?

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

#### Background and Evidence

The tenancy began on or about May 1, 2004. Rent in the amount of \$820.00 is payable in advance on the first day of each month. The tenant paid a security deposit of \$315.00 which the landlord still holds. The tenant failed to pay rent in the month(s) of November 2019 to March 2020, inclusive. The landlord served the tenant with a notice to end tenancy on March 4, 2020. The tenant failed to further pay the rent for April 2020. The landlord advised that as of today's hearing the amount of unpaid rent is 6 months x \$820.00 = \$4920.00. The landlord requests a monetary order for the unpaid rent, as

#### Analysis

The tenant failed to pay their rent in full within five days of being deemed to have received the 10 Day Notice. The tenant has not made application pursuant to section 46(4) of the *Act* within five days of being deemed to have received the 10 Day Notice. In accordance with section 46(5) of the *Act*, the tenants' failure to take either of these actions within five days led to the end of their tenancy on the corrected effective date of the notice.

In this case, this required the tenant to vacate the premises by March 17, 2020. As that has not occurred, I find that the landlord is entitled to a 2 day Order of Possession. The landlord is granted an Order of Possession pursuant to Section 55(2)(b) of the *Act*, which must be served on the tenant(s). If the tenant does not vacate the rental unit within the 2 days required, the landlord may enforce this Order in the Supreme Court of British Columbia. The landlord is also entitled to the recovery of the \$100.00 filing fee.

Based on the undisputed evidence provided by the landlord, I am satisfied that the tenant continues to owe the landlord unpaid rent. Although the landlord has not applied to retain the security deposit, using the offsetting provision under Section 72 of the *Act*, I hereby apply the \$315.00 security deposit and accrued interest of \$11.16 against the amount of unpaid rent.

Conclusion

The landlord is entitled to a monetary order as follows:

<b>Item</b>	<b>Amount</b>
Unpaid Rent Nov 2019 – April 2020	\$4920.00
Filing fee	100.00
Less Deposit and Interest	326.16
<b>Total Monetary Order</b>	<b>\$4693.84</b>

The landlord is granted an order of possession and a monetary order for \$4693.84. The landlord may retain the security deposit.

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 28, 2020

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 Residential Tenancy Branch