



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding BC Housing Management Commission  
and [tenant name suppressed to protect privacy]

## DECISION

Dispute Codes      OPR, MNRL, FFL

### Introduction

In this dispute, the landlord seeks unpaid rent pursuant to sections 26 and 67 of the *Residential Tenancy Act* (the “Act”), an order of possession pursuant to sections 46 and 55 of the Act, and, recovery of the filing fee pursuant to section 72 of the Act.

The landlord applied for dispute resolution on June 8, 2020 and a dispute resolution hearing was held on July 3, 2020. The landlord’s agent attended the hearing, and she was given a full opportunity to be heard, to present testimony, to make submissions, and to call witnesses. The tenant, however, did not attend.

The landlord’s agent testified and confirmed that she served the Notice of Dispute Resolution Proceeding package on the tenant by way of Canada Post registered mail on June 12, 2020. A copy of the registered mail receipt and tracking number were submitted into evidence, and the Canada Post online tracking service indicated that the package was delivered on June 12, 2020. In addition, the agent testified that the tenant had visited the landlord’s office on June 16, 2020 and picked up a copy of the package.

Based on the undisputed testimony and documentary evidence I am prepared to find that the tenant was served with the Notice of Dispute Resolution Proceeding package in compliance with section 89 of the Act, and that she was aware of the hearing.

I have only reviewed and considered oral and documentary evidence submitted meeting the requirements of the *Rules of Procedure*, to which I was referred, and which was relevant to determining the issues of this application.

### Issues

1. Is the landlord entitled to compensation for unpaid rent?
2. Is the landlord entitled to an order of possession for unpaid rent?
3. Is the landlord entitled to recovery of the filing fee?

### Background and Evidence

The tenancy started on September 17, 2018. Monthly rent, which is due on the first of the month, is \$511.00. The tenant did not pay a security or pet damage deposit. Submitted into evidence is a copy of the Residential Tenancy Agreement (the “tenancy agreement.”

On March 9, 2020, the landlord served a 10 Day Notice to End Tenancy for Unpaid Rent (the “Notice”) for unpaid rent in the amount of \$3,213.00, by way of regular mail. The landlord’s agent testified that as of today’s date, July 3, 2020, the tenant is in arrears for rent in the amount of \$2,755.00.

A copy of the landlord’s ledger for the tenant’s account, along with a copy of the Notice, and a completed Monetary Order Worksheet were submitted into evidence.

### Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

### **Is the landlord entitled to compensation for unpaid rent?**

Section 26 of the Act requires that a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with the Act, regulations or the tenancy agreement, unless the tenant has a right under the Act to deduct all or some of the rent.

Taking into consideration all the oral testimony and documentary evidence presented before me, and applying the law to the facts, I find on a balance of probabilities that the landlord has met the onus of proving their claim for compensation for unpaid rent in the amount of \$2,755.00.

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

Section 46(1) of the Act states that a landlord

may end a tenancy if rent is unpaid on any day after it is due, by giving notice to end the tenancy effective on a date that is not earlier than 10 days after the date the tenant receives the notice.

In this dispute, the landlord gave the Notice on March 9, 2020 for rent that was due on March 1, 2020.

Section 55(2)(b) of the Act states that

A landlord may request an order of possession of a rental unit in any of the following circumstances by making an application for dispute resolution: [. . .]

a notice to end the tenancy has been given by the landlord, the tenant has not disputed the notice by making an application for dispute resolution and the time for making that application has expired

In addition, section 55(4) of the Act states that

In the circumstances described in subsection (2)(b), the director may, without any further dispute resolution process under Part 5 *[Resolving Disputes]*,

(a) grant an order of possession, and

(b) if the application is in relation to the non-payment of rent, grant an order requiring payment of that rent.

In this case, the landlord gave the Notice, the tenant did not dispute the Notice by making an application for dispute resolution, and the time for making that application has now expired. As such, pursuant to section 55(4) of the Act, I grant the landlord an order of possession. Further, I grant the landlord an order requiring payment of that rent.

**Is the landlord entitled to recovery of the filing fee?**

Section 72(1) of the Act provides that an arbitrator may order payment of a fee under section 59(2)(c) by one party to a dispute resolution proceeding to another party. A successful party is generally entitled to recovery of the filing fee. As the landlord was successful, I grant their claim for reimbursement of the filing fee.

**Conclusion**

I hereby grant the landlord an order of possession, which may be served on the tenant and is effective two days from the date of service. This order may be filed in, and enforced as an order of, the Supreme Court of British Columbia.

I hereby grant the landlord a monetary order in the amount of \$2,855.00, which must be served on the tenant. Should the tenant fail to pay the landlord the amount owed, the landlord may file, and enforce, the order in the Provincial Court of British Columbia (Small Claims Court).

This decision is made on authority delegated to me under section 9.1(1) of the Act.

Dated: July 3, 2020

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Residential Tenancy Branch