



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPR, FFL

### Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order for Possession - Section 55; and
2. An Order to recover the filing fee for this application - Section 72.

The Tenant did not attend the hearing. I accept the Landlord’s evidence that the Tenant was served with the application for dispute resolution, notice of hearing and all evidence (the “Materials”) in person on October 2, 2020 in accordance with Section 89 of the Act. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

### Issue(s) to be Decided

Is the Landlord entitled to an order of possession?

Is the Landlord entitled to recovery of the filing fee?

### Background and Evidence

It is unknown when the tenancy started. The house containing the basement suite was purchased by the Landlord on June 25, 2020 with the tenant in place. Rent of \$900.00 is payable on the first day of each month. It is believed that no security deposit was collected. The Tenant failed to pay rent for September 2020 and on September 18, 2020 the Landlord served the Tenant with a 10-day notice to end tenancy for unpaid rent (the “Notice”) by posting the Notice on the door of the Tenant’s unit. The effective

date of the Notice is set out as September 28, 2020. In error the Landlord uploaded a copy of the Notice without the rental due date. The Notice that was served to the Tenant sets out unpaid rent of \$900.00 due September 1, 2020. The Tenant has paid the Landlord rent of \$900.00 on October 1, 2020 and rent of \$900.00 on November 3, 2020 for which the Landlord issued receipts "for use and occupancy only". The Tenant has not moved out of the unit and has not disputed the Notice.

### Analysis

Section 46 of the Act requires that upon receipt of a 10 notice to end tenancy for unpaid rent the tenant must, within five days, either pay the full amount of the arrears indicated on the notice or dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. If the tenant does neither of these two things, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice. Section 55(2)(b) of the Act provides that a landlord may request an order of possession of a rental unit by making an application for dispute resolution where a notice to end the tenancy has been given by the landlord, the tenant has not disputed the notice and the time for making that application has expired. Based on the Landlord's undisputed evidence of unpaid rent, the service of the Notice, the Notice not having been disputed and the outstanding rent for September 2020 not being paid by the Tenant within 10 days receipt of the Notice, I find that the Landlord is entitled to an order of possession. This order is effective 2 days after its service on the Tenant. As the Landlord has been successful with its claim, I find that the Landlord is also entitled to recovery of the \$100.00 filing fee.

### Conclusion

**I grant** an Order of Possession to the Landlord. The Tenant must be served with this **Order of Possession**. Should the Tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

I grant the Landlord an order under Section 67 of the Act for **\$100.00**. If necessary, this order may be filed in the Small Claims 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 Act.

Dated: November 13, 2020

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Residential Tenancy Branch