



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR-DR-PP, OPRM-DR, FFL

### Introduction

This hearing convened as a result of a Landlord's Application for Dispute Resolution wherein he sought an Order of Possession and monetary compensation based on a 10 Day Notice to End Tenancy for Landlord's Use issued on September 3, 2020 (the "Notice") as well as recovery of the filing fee.

This hearing was commenced by the Landlord through the Direct Request proceeding pursuant to section 55(4) of the *Residential Tenancy Act*. As the Landlord's application did not include a copy of the residential tenancy agreement, the Adjudicator adjourned the Landlord's Application to a participatory hearing.

The participatory hearing was scheduled for teleconference before me at 9:30 a.m. on this date. Only the Landlord and his girlfriend, S.J., called into the hearing. They Landlord gave affirmed testimony and was provided the opportunity to present his evidence orally and in written and documentary form, and to make submissions to me.

The Tenant did not call into this hearing, although I left the teleconference hearing connection open until 9:47 a.m. Additionally, 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.

As the Tenant did not call in, I considered service of the Landlord's hearing package. The Landlord testified that he served the Tenant with the Notice of Participatory Hearing on October 18, 2020 by registered mail. He further confirmed that on October 30, 2020 the Tenant contacted him to discuss the December 10, 2020 hearing such that she was aware of the date.

*Residential Tenancy Policy Guideline 12—Service Provisions* provides that service cannot be avoided by refusing or failing to retrieve registered mail and reads in part as follows:

Where a document is served by registered mail, the refusal of the party to either accept or pick up the registered mail, does not override the deemed service provision. Where the registered mail is refused or deliberately not picked up, service continues to be deemed to have occurred on the fifth day after mailing.

Pursuant to the above, and section 90 of the *Residential Tenancy Act*, documents served by registered mail are deemed served five days later; accordingly, I find the Tenant was duly served as of October 23, 2020 and I proceeded with the hearing in their absence.

I have reviewed all oral and written evidence before me that met the requirements of the *Residential Tenancy Rules of Procedure*. However, not all details of the Landlord/Tenant's submissions and or arguments are reproduced here; further, only the evidence specifically referenced by the Landlord/Tenant and relevant to the issues and findings in this matter are described in this Decision.

The Landlord confirmed the Tenant vacated the rental unit such that an Order of Possession was no longer required.

#### Issues to be Decided

1. Is the Landlord entitled to monetary compensation from the Tenant?
2. Should the Landlord recover the filing fee?

#### Background and Evidence

The Landlord testified that this tenancy began March 12, 2020. Monthly rent was \$1,100.00 and the Tenant paid a \$550.00 security deposit.

The Tenant failed to pay rent for August and September 2020 following which the Landlord issued the Notice.

The Landlord testified that the Tenant also failed to pay rent for October and November 2020 such that at the time of the hearing the sum of \$4,400.00 was outstanding for rent.

The Tenant vacated the rental unit in November of 2020.

### Analysis

Section 26 of the *Residential Tenancy Act* provides that a tenant must pay rent when rent is due. I accept the Landlord's testimony and find the Tenant was obligated to pay rent of \$1,100.00 per month.

I further accept the Landlord's testimony that the Tenant failed to pay rent for August, September, October and November 2020 such that the sum of **\$4,400.00** remains outstanding. I find the Landlord is entitled to recover this sum from the Tenant.

As the Landlord has been substantially successful in his Application, I also award him recovery of the **\$100.00** filing fee pursuant to section 72 of the *Act*. As such, the Landlord is entitled to a total of **\$4,500.00** in monetary compensation from the Tenant.

I authorize the Landlord to retain the Tenant's **\$550.00** security deposit towards the \$4,500.00 award and I grant the Landlord a Monetary Order for the balance due in the amount of **\$3,950.00**. This Order must be served on the Tenant and may be filed and enforced in the B.C. Provincial Court.

### Conclusion

The Tenant vacated the rental unit such that an Order of Possession was no longer required.

The Landlord is entitled to monetary compensation for unpaid rent and recovery of the filing fee. The Landlord may retain the Tenant's \$550.00 security deposit towards the amounts awarded and is granted a Monetary Order for the balance due in the amount of **\$3,950.00**.

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: December 10, 2020

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Residential Tenancy Branch