



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes**      OPR FFL

### **Introduction**

The landlord filed an Application for Dispute Resolution (the “Application”) on December 8, 2020 seeking an order of possession for the rental unit and to recover the filing fee for the Application. The matter proceeded by way of a hearing pursuant to section 74(2) of the *Residential Tenancy Act* (the “Act”) on March 4, 2021. In the conference call hearing I explained the process and provided the attending party the opportunity to ask questions.

The landlord attended the telephone conference call hearing; the tenant did not attend.

To proceed with this hearing, I must be satisfied that the landlord made reasonable attempts to serve the tenant with this Notice of Dispute Resolution Proceeding. This means the landlord must provide proof that the document was served at a verified address allowed under section 89 of the *Act*, and I must accept that evidence.

The landlord gave testimony that they used registered mail for this purpose. They included a registered mail receipt in their evidence to show this. This is for the rental unit which the tenant still occupied at the time of the hearing. The landlord provided the receipt and tracking information for the package including their evidence.

Based on the submissions of the landlord, I accept they served the tenant notice of this hearing and their Application in a manner complying with s. 89(1)(c) of the *Act*, and the hearing proceeded in the tenant’s absence.

### **Issue(s) to be Decided**

Is the landlord entitled to an Order of Possession for unpaid rent pursuant to ss. 46 and 55 of the *Act*?

Is the landlord entitled to recover the filing fee for this Application pursuant to s. 72 of the *Act*?

### **Background and Evidence**

I have reviewed all written submissions and evidence before me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this section.

The landlord spoke to the terms of the tenancy agreement. They did not provide a copy in their evidence. The tenancy began in January 2019, with the rent amount of \$2,000 per month. This was a verbal agreement between the parties.

The landlord applied for an Order of Possession pursuant to the 10 Day Notice to End Tenancy for Unpaid Rent (the “10-Day Notice”). They attached this beside a door of the tenant, in a conspicuous place, on August 24, 2020. They provided a photo showing the same, with an image accompanying the image sent via text message to state: “At approx. 3:10 pm, I arrived at [rental unit]. No one answered the door. I taped the 10 day eviction notice to the door and took a picture of said notice.” This is time-stamped at 3:13pm.

The landlord provided a copy of the 10-Day Notice. It provides that the tenant had five days from the date received to pay the rent in full or apply for dispute resolution, or the tenancy would end on the vacancy date indicated, September 8, 2020.

The reason for the landlord serving the 10 Day Notice is the unpaid rent, accumulated for 2019 and 2020, for \$29,000. The landlord indicates that this was due on August 1, 2020.

### **Analysis**

From the testimony of the landlord I am satisfied that a tenancy agreement was in place. The agent provided the specific term of rental payment and amount. The tenant did not attend the hearing; therefore, there is no evidence before me to show otherwise.

By s. 90(c), the 10-Day Notice was deemed served to the tenant on August 27, 2020. I accept the undisputed evidence before me that the tenant failed to pay the rent owed in full by September 1, 2020, within the five days granted under s. 46(4) of the *Act*. The tenant did not dispute the 10 Day Notice within that five-day period.

Based on the foregoing, I find that the tenant is conclusively presumed under s. 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the 10 Day Notice, September 8, 2020.

On my review of the document, the 10-Day Notice contains the necessary elements for it to be effective; therefore, it complies with s. 52.

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

### **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 s. 72 of the *Act*, I grant the landlord a Monetary Order in the amount of \$100.00 for recovery of the filing fee for this hearing application. 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 *Act*.

Dated: March 4, 2021

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Residential Tenancy Branch