



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Widsten Property Management  
Inc. and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNR, OPR-DR, OPRM-DR

### Introduction

This hearing was convened in response to an application by the Tenant and an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”). The Tenant applied on February 9, 2021 for:

1. An Order cancelling a notice to end tenancy - Section 46.

The Landlord applied on February 11, 2021 for:

1. An Order of Possession - Section 55; and
2. An Order for unpaid rent or utilities - Section 67.

### Preliminary Matter

The Tenant did not appear on the conference call hearing. The Landlord states that the Tenant did not serve the Landlord with the Tenant’s application for dispute resolution. As the Tenant did not attend the hearing and given the undisputed evidence that the Tenant did not served their application on the Landlord, I dismiss the Tenant’s application.

I accept the Landlord’s evidence that the Tenant was served with the Landlord’s application for dispute resolution, notice of hearing and evidence (the “Package”) by registered mail on February 22, 2021 in accordance with Section 89 of the Act. Section 90 of the Act provides that a document served in accordance with section 89 of the Act is deemed to be received if given or served by mail, on the 5th day after it is mailed. Given the evidence of registered mail I find that the Tenant is deemed to have received

the Package on February 27, 2021. 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 unpaid rent?

Background and Evidence

The tenancy under written agreement started on November 1, 2020. Rent of \$750.00 is payable on the first day of each month. At the outset of the tenancy the Landlord collected \$375.00 as a security deposit. The Tenant failed to pay rent for February 2021 and on February 5, 2021 the Landlord served the Tenant with a 10-day notice to end tenancy for unpaid rent (the "Notice") by giving the Notice in person to the Tenant. The Notice sets out an effective date of February 15, 2021 and outstanding rent of \$750.00 due February 1, 2021. The Tenant has not returned any keys or informed the Landlord that it has moved out of the unit and the Landlord has no evidence that the Tenant has moved out of the unit. The Tenant has not paid the arrears or rent for March, April and May 2021. The Landlord seeks unpaid rent for the period February to May 15, 2021.

Analysis

Section 55(1) provides that if a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, an order of possession must be granted to the landlord if, the notice to end tenancy complies in form and content and the tenant's application is dismissed or the landlord's notice is upheld. Section 52 of the Act provides that in order to be effective, a notice to end a tenancy must be in writing and must

- (a) be signed and dated by the landlord or tenant giving the notice,
- (b) give the address of the rental unit,
- (c) state the effective date of the notice,

(d) except for a notice under section 45 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy, and

(e) when given by a landlord, be in the approved form.

Considering that the required form and content is contained on the Notice and given the dismissal of the Tenant's application I find that the Landlord is entitled to an order of possession effective 2 days after service of the order of possession on the Tenant.

Section 26 of the Act provides that a tenant must pay the rent when and as provided under the tenancy agreement. Based on the Landlord's undisputed evidence, I find that the Tenant has failed to pay rent as required under the tenancy agreement and that the Landlord is entitled to unpaid rent. As the Landlord has an order of possession that will be effective within two days of its service and as unpaid rent has accumulated since the Landlord served the Notice I find that the Landlord is entitled to rent for February, March, April and ½ of May 2021 for a total amount of \$2,625.00. Deducting the security deposit of **\$375.00** plus zero interest leaves **\$2,250.00** owed by the Tenant to the Landlord.

### Conclusion

**I grant** an Order of Possession to the Landlord effective two days after service on the Tenant. 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 order** that the Landlord retain the **deposit** and interest of \$375.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the balance due of **\$2,250.00**. 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: May 13, 2021

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Residential Tenancy Branch