



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Nanaimo Affordable Housing  
Society and [tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes:** OPR-DR-PP

### **Introduction**

This hearing, adjourned from a Direct Request process in which a decision is made based solely on the written evidence submitted by the landlord, dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for:

- an Order of Possession for unpaid rent, pursuant to section 55.

While the landlord's agent JR attended the hearing by way of conference call, the tenant did not. The landlord was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the landlord's agent and I were the only ones who had called into this teleconference.

The landlord testified that the tenant was personally served by with the landlord's application for dispute resolution hearing package on April 23, 2021. In accordance with section 89 the Act, I find that the tenant was duly served with the landlord's application package. The landlord served further evidentiary materials on June 8, 2021 by way of registered mail. The landlord provided the tracking number for this package in their materials. In accordance with sections 88 and 90 of the Act, I find the tenant deemed served with these additional materials 5 days after mailing.

The landlord testified that the tenant was served with the landlord's 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated January 18, 2021 ("10 Day Notice") on January 19, 2021 by way of posting the notice on the tenant's door. In accordance with sections 88 and 90 of the Act, I find that the tenant deemed served with the landlord's 10 Day Notice on January 22, 2021, three days posting.

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

Is the landlord entitled to an Order of Possession for unpaid rent?

### **Background and Evidence**

The landlord testified regarding the following facts. This month-to-month tenancy began on October 1, 2012. Monthly rent is currently set at \$362.00, payable on the first of the month. The landlord collected a security deposit in the amount of \$172.75 at the beginning of the tenancy.

The landlord served the tenant with the 10 Day Notice on January 19, 2021 for failing to pay \$506.40, that was due on or before January 1, 2021. The landlord testified that the tenant made a payment on February 1, 2021 in the amount of \$531.40, and the tenant was provided a receipt for use and occupancy only. The landlord testified that since that 10 Day Notice was served, the tenant has been served further 10 Day Notices for unpaid rent, and the tenant still owes outstanding rent.

### **Analysis**

The landlord provided undisputed evidence at this hearing, as the tenant did not attend. The tenant failed to pay the outstanding rent in full, within five days of being deemed to have received the 10 Day Notice. The tenant did not make an application pursuant to section 46(4) of the *Act* within five days of being deemed to have received the 10 Day Notice. In accordance with section 46(5) of the *Act*, the failure of the tenant to take either of the above actions within five days led to the end of this tenancy on February 28, 2021, the effective date on the 10 Day Notice. In this case, this required the tenant and anyone on the premises to vacate the premises by February 28, 2021. I find that the landlord's 10 Day Notice complies with section 52 of the *Act*. As the tenant has not moved out, I find that the landlord is entitled to a two (2) day Order of Possession, pursuant to section 55 of the *Act*.

### **Conclusion**

I grant an Order of Possession to the landlord effective **two (2) days after service on the tenant**. Should the tenant or anyone on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

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: June 21, 2021

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Residential Tenancy Branch