



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPRM-DR, OPR-DR, FFL

### Introduction

This hearing was reconvened from an Interim Decision dated March 19, 2021 (the “Interim Decision”) in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for unpaid rent - Section 67;
2. An Order of Possession - Section 55; and
3. An Order to recover the filing fee for this application - Section 72.

The Tenant did not attend the hearing. The Landlord appeared and stated that the Tenant has not moved out of the unit. The Interim Decision accepted the service of the Landlord’s application for dispute resolution and as the matter was adjourned to a participatory hearing the Landlord was ordered to serve the Notice of Reconvened Hearing and Interim Decision plus any required documents (the “Materials”) within three days receipt of the Interim Decision. The Interim Decision was received by the Landlord on March 23, 2021 and the Tenant was served with the Materials in person on March 26, 2021 in accordance with the order in the Interim Decision. The Landlord was given full opportunity under oath 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 the monetary amounts claimed?

### Background and Evidence

The tenancy started on September 1, 2020. Rent off \$2,400.00 is payable on the first day of each month. At the outset of the tenancy the Landlord collected \$600.00 as a

security deposit. The Tenant owed rental arrears of \$780.00 for September 2020, \$1,600.00 for December 2020, \$800.00 for January 2021, and failed to pay rent for February 2021. On February 2, 2021 the Landlord served the Tenant with a 10-day notice to end tenancy for unpaid rent (the "Notice"). The Notice sets out unpaid rent of \$2,400.00 due February 1, 2021 and an effective date of February 12, 2021. The Tenant did not dispute the Notice and has not paid any of the rental arrears to and including February 2021. The Tenant has also not paid any rent for March, April, May, and June 2021. The Tenant has not moved out of the unit. The Landlord claims an order of possession and unpaid rent.

### 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. Based on the undisputed evidence I find that the Landlord gave the Tenant the Notice and the Tenant did not dispute the Notice or pay the arrears within the required time. For this reason, I find that the Notice is valid and that the Tenant is conclusively presumed to have accepted the end of the tenancy and must move out of the unit.

Section 55(2) of the Act provides that where a notice to end the tenancy has been given by the landlord, the tenant has not disputed the notice by making an application for dispute resolution and the time for making that application has expired, a landlord may request an order of possession. Based on the undisputed evidence that the Tenant has not moved out of the unit and as the Landlord made the application seeking an order of possession, I find that the Landlord has substantiated an entitlement to an order of possession. I grant the Landlord an **order of possession effective two days after service of this order on the Tenant.**

Section 26 of the Act provides that a tenant must pay the rent when and as provided under the tenancy agreement whether or not the landlord complies with this Act, the regulations or the tenancy agreement. Based on the Landlord's undisputed evidence of unpaid rents I find that the Landlord has substantiated an entitlement to **\$15,180.00**. As the Landlord has been successful with its claims, I find that the Landlord is also entitled to recovery of the \$100.00 filing fee for a total entitlement of \$15,280.00. Deducting the security deposit plus zero interest of \$600.00 leaves \$14,580.00 owed to the Landlord.

### 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 order** that the Landlord retain the **deposit** and interest of \$600.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the balance due of **\$14,580.00**. 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: June 29, 2021

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Residential Tenancy Branch