



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      **MNRL-S, OPR, FFL**

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67;
- authorization to recover the filing fee from the tenant pursuant to section 72.

The tenant did not attend this hearing which lasted approximately 15 minutes. The teleconference line remained open for the duration of the hearing and the Notice of Hearing was confirmed to contain the correct hearing information. The corporate landlord was represented by their agent (the "landlord") who was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord was made aware of Residential Tenancy Rule of Procedure 6.11 prohibiting recording dispute resolution hearings and they testified that they were not making any recordings.

The landlord testified that they served the tenant with the notice of application and evidence by registered mail sent on March 26, 2021. The landlord submitted a valid Canada Post tracking receipt as evidence of service. Based on the evidence I find that the tenant is deemed served with the landlord's materials on March 31, 2021, five days after mailing, in accordance with sections 88, 89 and 90 of the *Act*.

At the outset of the hearing, the landlords made an application requesting to amend the monetary amount of the claim sought. The landlords indicated that since the application was filed additional rent has become due and owing. As additional rent coming due is

reasonably foreseeable, pursuant to section 64(3)(c) of the *Act* and Rule 4.2 of the Rules of Procedure I amend the landlords' Application to increase the landlord's monetary claim to \$6,031.00.

### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to a Monetary Award as claimed?

Is the landlord entitled to recover the filing fee from the tenant?

### Background and Evidence

This periodic tenancy began in May 2010. The current monthly rent is \$936.00 with the tenant responsible for paying \$458.00 and the balance subsidized through provincial government programs. A security deposit of \$409.50 is held by the landlord.

The tenant failed to pay rent as required in the tenancy agreement and there was an arrear of \$3,192.00 as at January 12, 2021. The landlord issued a 10-Day Notice dated January 12, 2021, serving it on the tenant by posting on the rental unit door on that date. The landlord is unaware of the tenant filing an application for dispute resolution or paying the arrear within 5 days of service or at all.

The tenant has continued to not pay rent for the tenancy and has failed to submit income information in order to qualify for housing subsidies. The landlord submits that as at the date of the hearing the rental arrear is \$6,031.00. The landlord submitted into evidence a copy of the tenancy ledger and gave testimony about the subsequent rent that has come due.

### Analysis

The landlord provided undisputed evidence at this hearing, as the tenant did not attend. I find that the tenant was obligated to pay the monthly rent in the amount of \$936.00 pursuant to the tenancy agreement. I accept the evidence before me that the tenant failed to pay the rent as required and there was an arrear of \$3,192.00 as at January 12, 2021 forming the basis for the landlord to issue a 10 Day Notice.

I am satisfied with the evidence of the landlord by way of their undisputed testimony and signed Proof of Service Form that the 10 Day Notice was served by posting on the rental unit door on January 12, 2021. In accordance with sections 88 and 90 of the Act I find that the tenant is deemed served with the 10 Day Notice on January 15, 2021, three days after posting.

I accept the landlord's evidence that the tenant did not pay the full amount of rent due within the 5 days of service granted under section 46(4) of the *Act* did they file an application for dispute resolution. I accept the landlord's evidence that any subsequent payments were clearly indicated to the tenant to be for use and occupancy and did not reinstate the tenancy. Therefore, I find that the landlord is entitled to an Order of Possession, pursuant to section 55 of the *Act*. As the effective date of the notice has passed I issue an Order enforceable two days after service.

I accept the landlord's undisputed evidence that the total amount of arrears for this tenancy is \$6,031.00. I issue a monetary award for unpaid rent owing of \$6,031.00 as at July 12, 2021, the date of the hearing, pursuant to section 67 of the *Act*.

As the landlord's application was successful, the landlord is also entitled to recovery of the \$100.00 filing fee for the cost of this application.

In accordance with sections 38 and the offsetting provisions of 72 of the *Act*, I allow the landlord to retain the tenant's \$409.50 security deposit in partial satisfaction of the monetary award issued in the landlord's favour.

Conclusion

I grant an Order of Possession to the landlord effective **2 days after service on the tenant**. Should the tenant or any occupant 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.

I issue a monetary order in the landlord's favour in the amount of \$5,721.50. 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 *Residential Tenancy Act*.

Dated: July 12, 2021

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Residential Tenancy Branch