



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Evertrinity investment limited partnership, 168289 HOLDING INC, and [tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes**      **RP, CNR, OLC, PSF (primary- tenant)**  
                                 **RP, CNR (tenant)**  
                                 **OPR-DR (landlord)**

### **Introduction**

This hearing dealt with two applications by the tenant under the *Residential Tenancy Act* (the *Act*) for the following:

- An order requiring the landlord to carry out repairs pursuant to section 32;
- Cancellation of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (“Ten Day Notice”) pursuant to section 46;
- An order requiring the landlord to comply with the Act pursuant to section 62;
- An order requiring the landlord to provide services or facilities required by the tenancy agreement or law pursuant to section 62(3);

This hearing also dealt with an application by the landlord under the *Residential Tenancy Act* (the *Act*) for the following:

- An order for possession under a 10-Day Notice to End Tenancy for Unpaid Rent (“Ten-Day Notice”) pursuant to sections 46 and 55;

A previous Decision was issued on November 23, 2021. The Decision was suspected by Review Consideration Decision dated December 3, 2021. The Arbitrator on the Review Consideration Decision directed that the Landlord must served the Review Consideration Decision on the tenant along with notice of the time and date of the new hearing.

ZZ attended as the landlord's agent ("the landlord") and had opportunity to provide affirmed testimony, present evidence and make submissions. The hearing process was explained. The landlord stated they had been served with the Notice of Hearing by email from the tenant.

The tenant did not attend the hearing. I kept the teleconference line open from the scheduled time for the hearing for an additional 27 minutes to allow the tenant the opportunity to call. The teleconference system indicated only the landlord and I had called into the hearing. I confirmed the correct call-in number and participant code for the tenant was provided.

In the absence of any submissions or evidence, I order the tenant's applications dismissed without leave to reapply.

#### *Service*

The landlord provided affirmed testimony that they served the tenant with the required documents by registered mail to the tenant sent on December 3, 2021.

The landlord provided a Proof of Service form, the Canada Post Tracking Number and copies of receipts in support of service. Further to the landlord's testimony and supporting documents, I find the landlord served the tenant with the with the Notice of Reconvened Hearing and all other required documents on December 3, 2021, deemed received on December 8, 2021, pursuant to sections 89 and 90.

#### *Preliminary Matter – Landlord's Name*

The landlord testified that the landlord is the holding company named by the landlord in the landlord's application. The tenant submitted two different names for the landlord in the tenant's application. Further to the landlord's testimony, the name of the landlord is corrected throughout.

#### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

### Background and Evidence

The landlord provided uncontradicted affirmed testimony as the tenant did not appear at the hearing.

The landlord stated the tenancy between the parties was verbal only. The landlord testified to the background of the tenancy between the landlord and the tenant:

INFORMATION	DETAILS
Type of tenancy	monthly
Date of beginning	2019, exact date uncertain
Date of ending	ongoing
Monthly rent payable on 1 <sup>st</sup>	\$400.00
Security deposit	None
Pet deposit	none
Date of landlord Application	September 24, 2021

The landlord testified the landlord posted the 10 Day Notice to the tenant's door on July 21, 2021, thereby effecting service under section 90 of the Act on July 24, 2021. The landlord submitted a copy of the Ten-Day Notice as evidence which is in the standard RTB form.

The landlord submitted a Proof of Service document in the RTB form in support of the testimony regarding service.

The Ten-Day Notice provides the tenant had five days from the date of service to pay the rent in full or apply for Dispute Resolution, or the tenancy would end on the stated effective vacancy date of July 30, 2021. The landlord testified the tenant did not pay the amount owing in full.

The landlord testified that at the time the 10 Day Notice was issued, the tenant was in arrears of rent of \$4,000.00; the tenant has not paid any rent subsequently. The landlord provided uncontradicted testimony the amount claimed remain unpaid and owing to the landlord.

The landlord requested an Order of Possession.

The landlord did not request a Monetary Order for outstanding rent or reimbursement of the filing fee.

### Analysis

I find the form and content of the Ten-Day Notice complies with section 52 of the *Act*. I accept the landlord's testimony that the tenant was served with the Ten-Day Notice as testified and in accordance with the *Act*.

I accept the landlord's testimony and documentary evidence and find the tenant did not pay the overdue amount or dispute the Ten-Day Notice within the five-day period following service.

The tenant has not attended the arbitration and the tenant's applications have been dismissed without leave to reapply. Pursuant to section 46(5), the tenant is conclusively presumed to have accepted the tenancy ends on the effective date of the Notice requiring the tenant to vacate the rental unit on the corrected date of August 4, 2021.

The tenant continues to occupy the unit.

Thus, I find that the landlord is entitled to an Order of Possession pursuant to section 55 of the Act, effective two days after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

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

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

The Order must be served on the tenant. If the tenant fails to comply, the landlord may file the Order with the Courts of British Columbia to be 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: January 18, 2022

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Residential Tenancy Branch