



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding BEACON COMMUNITY SERVICES - VICTORIA,  
BC and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPU-DR MNU-DR FFL

### Introduction

This matter originally proceeded by way of a Direct Request proceeding, pursuant to section 55(4) of the *Residential Tenancy Act* (Act) and dealt with an Application for Dispute Resolution (application) by the landlord for an order of possession for unpaid rent or utilities, for a monetary order for unpaid rent and utilities, and the filing fee. On October 25, 2021, an adjudicator adjourned this matter to a participatory hearing which was held on this date, February 24, 2022, at 11:00 a.m. Pacific Time.

An agent for the landlord, TO (agent) attended the teleconference as scheduled and provided affirmed testimony. The agent also presented their documentary evidence. I have described the evidence relevant to the matters before me below.

As the tenant did not attend the hearing, service of the Notice of Hearing, application, documentary evidence were considered. The agent provided affirmed testimony that the Notice of Hearing, application and documentary evidence were served on the tenant; however, since filing their application the tenant passed away due to an overdose on February 18, 2022. The agent stated that they were advised of the tenant's overdose by the Victoria Police Department.

Given the above, and pursuant to section 64(3)(c) of the Act, I have amended the tenant's name to Estate of JB, Deceased.

### Preliminary and Procedural Matters

The agent was informed at the start of the hearing that recording of the dispute resolution is prohibited under the Residential Tenancy Branch (RTB) Rules of Procedure (Rules) Rule 6.11. The agent was also informed that if any recording devices were being used, they were directed to immediately cease the recording of the

hearing. In addition, the agent was informed that if any recording was surreptitiously made and used for any purpose, they will be referred to the RTB Compliance Enforcement Unit for the purpose of an investigation under the Act. The agent had no questions about my direction pursuant to RTB Rule 6.11.

In addition, the agent confirmed their email address at the outset of the hearing and stated that they understood that the decision and any applicable orders would be emailed to them. The decision for the tenant will be sent via email at the email address provided in the application.

#### Issues to be Decided

- Is the landlord entitled to an order of possession for unpaid rent?
- Is the landlord entitled to a monetary order for unpaid rent and utilities?
- Is the landlord entitled to the recovery of the cost of the filing fee?

#### Background and Evidence

The landlord submitted a copy of the tenancy agreement in evidence. The agent confirmed that the tenant was permitted to transfer rental units within the building but after the transfer was permitted, the tenant refused to sign a new tenancy agreement reflecting the change of rental units. The monthly rent was \$320.00 per month, plus \$42.00 for cablevision plus \$25.00 for electricity for a total of \$387.00 per month. Monthly rent was due on the first day of each month and is a month-to-month tenancy. The agent stated that the tenant failed to pay a security deposit.

The agent testified that as of the date of the hearing, the tenant owes a total of \$3,588.00 in unpaid rent plus \$432.00 in unpaid cablevision and electricity.

Regarding the 10 Day Notice, the agent stated that it was served on the tenant on September 7, 2021 and that the 10 Day Notice was posted to the rental unit door, sent via registered mail and a copy of sent via email to the tenant as well. The agent stated that the tenant did not submit an application to dispute the 10 Day Notice and has not paid any of the amount listed as owing on the 10 Day Notice, which was as follows:

I am ending your tenancy because:		
<input checked="" type="checkbox"/>	You have failed to pay rent in the amount of \$ 598.00 + 300.00 DD	due on: (DD/MM/YYYY) 01-Sep-2021
<input checked="" type="checkbox"/>	You have failed to pay utilities in the amount of \$ 25.00 + 47.00	following written demand on: (DD/MM/YYYY)

### Analysis

Based on the landlord's undisputed documentary evidence and undisputed testimony provided by the agent, and on the balance of probabilities, I find the following.

**Order of Possession** - I accept the agent's undisputed testimony that the tenant failed to pay any amount listed on the 10 Day Notice within 5 days after receiving the 10 Day Notice, and that the tenant is conclusively presumed pursuant to section 46 of the Act, to have accepted that the tenancy ended on the effective vacancy date on the 10 Day Notice, September 20, 2021. I grant the landlord an order of possession effective **two (2) days** after service on the tenant/at the rental unit.

I find the tenancy ended on September 20, 2021, and that the tenant has been overholding the rental unit since that date until they passed away on February 18, 2022.

I accept the undisputed testimony that the tenant's estate owes a total of \$3,588.00 in unpaid rent, plus \$432.00 in unpaid cablevision and electricity for a total amount owing of **\$4,120.00**.

As the landlord's application had merit, I grant the landlord the recovery of the **\$100.00** filing fee pursuant to section 72 of the Act.

I find that the landlord has established a total monetary claim of **\$4,220.00** comprised as indicated above and including the filing fee.

### Conclusion

The landlord's application is fully successful.

The landlord has been granted an order of possession effective two (2) days after service on the tenant, which must be served on the tenant/rental unit.

The landlord is granted a monetary order against the estate of the tenant in the total amount of \$4,220.00.

The decision and orders will be emailed to the landlord.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: February 24, 2022

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Residential Tenancy Branch