



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Centurion Property Associates  
Inc and [tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes**      **OPU-DR, MNU-DR, FFL**

### **Introduction**

This hearing, reconvened from an *ex parte* Direct Request proceeding, 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 award pursuant to section 67; and
- 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 its agent (the "landlord") and counsel who were 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 gave evidence that the tenant was served with the Notice of Hearing and all materials by registered mail sent on December 4, 2021. The landlord provided a valid Canada Post tracking receipt as evidence of service. Based on the evidence I find the tenant deemed served with the landlord's materials on December 9, 2021, five days after mailing, in accordance with sections 88, 89 and 90 of the *Act*.

At the outset of the hearing, the landlord indicated that since the application was filed additional rent has come due and requested to amend the amount of their monetary claim. Pursuant to section 64(3)(c) of the *Act* and Rule 4.2 of the Rules of Procedure as additional rent coming due could reasonably be anticipated I amend the landlord's Application to increase the landlords' monetary claim to \$13,450.83.

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

The landlord provided undisputed evidence regarding the following facts. This periodic tenancy began on October 1, 2020. The landlord assumed this tenancy when they purchased the rental property from the previous owner in February 2021. The landlord holds a security deposit of \$947.50. The current monthly rent is \$1,923.42 payable on the first of each month. The rent was previously \$1,895.00 until increased in accordance with the *Act* on January 1, 2022. The tenant is also responsible for paying the utilities for the rental unit pursuant to the tenancy agreement.

The tenant failed to pay rent as required on August 1, 2021 and the landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent dated August 9, 2021 indicating a rental arrear of \$1,895.00 and utility arrear of \$197.98. Written demand for payment of the utilities was made prior to the issuance of the 10 Day Notice on July 28, 2021. The 10 Day Notice was served on the tenant by posting on the rental unit door on that date. The tenant failed to make full payment against the arrear or file an application to dispute the notice. The tenant made a payment of \$500.00 on August 25, 2021 which was accepted for use and occupancy only and did not reinstate the tenancy.

The landlord submits that as of the date of the hearing, February 10, 2022 there is a total arrear for this tenancy of \$13,450.83. The landlord submitted the tenant ledger showing the amounts payable under the tenancy agreement.

### Analysis

The landlord provided undisputed evidence at this hearing, as the tenant did not attend. I accept the evidence that the landlord assumed this tenancy when the rental property was purchased. I find that the tenant was obligated to pay the monthly rent in the amount of \$1,895.00 pursuant to the signed tenancy agreement. I accept the evidence before me that the tenant failed to pay the full rent on August 1, 2021 and there was a basis for the landlord to issue a 10 Day Notice. In accordance with sections 88 and 90 of the Act I find that the tenant is deemed served with the 10 Day Notice on August 12, 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* nor did they file an application to dispute the Notice. 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 tenant is conclusively presumed to have accepted that the tenancy ends in accordance with the 10 Day Notice pursuant to section 46(5) and the landlord is entitled to an Order of Possession. As the effective date of the Notice has passed, I issue an Order effective 2 days after service.

I accept the landlord's undisputed evidence that the total amount of arrears for this tenancy is \$13,450.83. I am satisfied with the evidence of the landlord including their written tenant ledger, cogent testimony and calculations. I issue a monetary award for the rental and utility arrears of \$13,450.83 as at February 10, 2022, 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 \$947.50 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 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.

I issue a monetary order in the landlord's favour in the amount of \$12,603.33 which allows the landlords to recover unpaid rent and utilities and the filing fee for their application and retain the security deposit. 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: February 10, 2022

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Residential Tenancy Branch