



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR-DR, MNR-DR, FFL

### Introduction

The landlords seek an order of possession and a monetary order for unpaid rent pursuant to sections 26, 55, and 67 of the *Residential Tenancy Act* ("Act"). In addition, they seek recovery of the filing fee under section 72 of the Act.

### Preliminary Issue: Service

One of the landlords attended the hearing, but the respondent tenant did not. In such cases where a respondent does not attend, I must be satisfied that the respondent was properly served with the Notice of Dispute Resolution Proceeding. Such service must comply with the Act and the Residential Tenancy Branch's *Rules of Procedure*, and there must be evidence to support a finding that such service in fact occurred.

The landlord testified under oath that he served the Notice of Dispute Resolution Proceeding by registered mail, which is a permitted method of service under section 89 of the Act. The landlord submitted into evidence documentary proof consisting of a Canada Post registered mail receipt and a registered mail tracking number proving that the tenant was served by registered mail.

Given the evidence before me, it is my finding that the tenant was appropriately served with the Notice of Dispute Resolution Proceeding and documentary evidence necessary for them to participate fully in these proceedings.

### Issues

1. Are the landlords entitled to an order of possession?
2. Are the landlords entitled to a monetary order?

## Background and Evidence

Relevant oral and documentary evidence, complying with the *Rules of Procedure*, was carefully considered in reaching this decision. Only the evidence needed to explain the decision is reproduced below.

The tenancy began on January 15, 2020. Monthly rent, which is due on the first day of the month, is \$1,800.00. The tenant paid a \$1,000.00 security deposit, which the landlords currently hold in trust. It should be noted that there were two tenants in the rental unit and on the tenancy agreement, but one of those tenants has since left. A copy of the tenancy agreement was in evidence.

On December 19, 2021 the landlords posted a 10 Day Notice to End Tenancy for Unpaid Rent (the “Notie”) on the door of the rental unit. A copy of the Notice was in evidence, along with documentary proof of service evidence. As of March 29, 2022, the tenant owes \$7,200.00 in arrears.

## Analysis

Rent must be paid when it is due under a tenancy agreement ([section 26\(1\)](#) of the Act). A landlord may issue a notice to end the tenancy under [section 46](#) of the Act if a tenant does not pay rent on time and in full.

If a tenant does not pay the amount of rent owing, or if they do not dispute the notice within 5 days, they are presumed to have accepted the notice and must vacate by the effective end of tenancy date indicated on the notice (section 46(5) of the Act).

A landlord may seek an order of possession and a monetary order if a tenant has not disputed the notice and the time for filing an application to dispute that notice has passed ([sections 55\(2\)\(b\) and 55\(4\)](#) of the Act).

In this dispute, it is my finding that the landlord served the Notice and the tenant neither paid the rent nor disputed the Notice. As such, the landlord is entitled to an order of possession of the rental unit. A copy of the order of possession is issued in conjunction with this decision, to the landlords. The landlords must serve a copy of the order of possession on the tenant by any means permitted under [section 88](#) of the Act. Should the tenant fail to comply with this order the landlords may enforce the order in the Supreme Court of British Columbia.

Next, the undisputed, sworn evidence of the landlord leads me to find that the tenant owes \$7,200.00 in unpaid rent.

As the landlords succeeded in their application, they are entitled to recover the cost of the filing fee pursuant to section 72 of the Act, for a total award of \$7,300.00.

Section 38(4)(b) of the Act permits a landlord to retain an amount from a security or pet damage deposit if “after the end of the tenancy, the director orders that the landlord may retain the amount.” As such, I authorize the landlords to retain the tenant’s security deposit of \$1,000.00 in partial satisfaction of the above-noted award.

The balance of the award — \$6,300.00 — is issued to the landlords by way of a monetary order. A copy of this monetary order is issued in conjunction within this decision, to the landlords, and the landlords must serve a copy of the monetary order on the tenant. If the tenant fails to pay this amount, then the landlords may enforce the monetary order in the Provincial Court of British Columbia.

### Conclusion

The landlords’ application is hereby granted.

This decision is final and binding on the parties, and it is made on delegated authority under section 9.1(1) of the Act.

Dated: March 29, 2022

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Residential Tenancy Branch