



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

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

### Introduction

This hearing 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 or Utilities (“Ten-Day Notice”) pursuant to sections 46 and 55;
- A monetary order for unpaid rent and for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* (“*Regulation*”) or tenancy agreement pursuant to section 67 of the *Act*;
- Authorization to recover the filing fee for this application pursuant to section 72.

The landlord attended with the agent KH. The landlord had opportunity to provide affirmed testimony, present evidence and make submissions.

Preliminary issues were the following.

#### *1. Attendance of Tenant*

The tenant did not attend the hearing. I kept the teleconference line open from the scheduled time for the hearing for an additional 18 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.

## *2. Recording*

The persons attending were cautioned that recordings of the hearing were not permitted pursuant to Rule 6.11 of the *Residential Tenancy Branch Rules*. They confirmed their understanding of the requirement and further confirmed they were not making recordings of the hearing.

## *3. Delivery of Decision*

The landlord confirmed their email address to which a copy of the Decision and any Order will be sent.

## *4. Service*

As the tenant did not attend the hearing, the landlord provided testimony regarding service of the landlord's materials.

The landlord provided affirmed testimony that they personally served the tenant with Notice of Hearing and Application for Dispute Resolution on January 7, 2022.

Further to the evidence submitted by the landlord, I find the landlord served the tenant with the landlord's evidence in compliance with section 89 of the Act.

## *5. Security deposit*

The landlord requested an amendment to the landlord's application to request that the landlord be authorized to apply the security deposit of \$500.00 held by the landlord to any monetary award granted pursuant to section 72.

The landlord testified the tenant paid the landlord a security deposit in this amount at the start of the tenancy which the landlord holds. The tenant has not given the landlord permission to apply the security deposit to outstanding rent.

Section 4.2 of the Rules of Procedure provides that a landlord's monetary claim may be amended at the hearing in circumstances that can reasonably be anticipated.

I find the tenant could reasonably anticipate the landlord's claim would be amended to include a request authorizing the landlord to apply the security deposit to a monetary award for outstanding rent. The amendment would not be prejudicial to the respondent.

Pursuant to my authority under section 64(3)(c) of the *Act*, I amended the landlord's applications to allow the landlord to request that the security deposit be applied to any monetary award.

Issue(s) to be Decided

Is the landlord entitled to a Monetary Order and an Order of Possession?

Background and Evidence

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

The landlord testified that the verbal monthly tenancy agreement between the parties for the unit, a single residency house, started on October 1, 2019. Rent is \$1,000.00 monthly payable on the first of the month. The tenant provided a security deposit of \$500.00 at the beginning of the tenancy.

The landlord testified that the tenant did not pay rent for the month of January 2022.

The landlord testified the landlord issued a 10 Day Notice in the standard RTB form, a copy of which was submitted. The details are as follows:

INFORMATION	DETAILS
Type of Notice	10 Day Notice
Date of Notice	January 7, 2022
Effective Date of Notice	January 18, 2022
Date and Method of Service	Personal
Effective Date of Service	January 7, 2022
Reasons for Issuance	Nonpayment rent due January 1, 2022

Application for Dispute Resolution filed	February 16, 2022
Arrears - current	\$2,000.00

The 10 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.

The tenant has not filed an Application for Dispute Resolution.

The tenant has not provided written authorization to the landlord to apply the deposit to outstanding rent.

The landlord provided uncontradicted testimony and supporting evidence that the amount claimed remain unpaid and owing to the landlord. The tenant has made payments on rent and utilities which were accepted for use and occupancy only.

The landlord testified the current arrears of rent are \$2,000.00 and requested a Monetary Order in this amount.

The landlord requested reimbursement of the filing fee and authorization to apply the security deposit to the award.

The landlord requested an Order of Possession.

### Analysis

I have reviewed the uncontradicted evidence of the landlord and make the following findings.

### 10 Day Notice

I find the form and content of the 10 Day Notice complies with section 52 of the Act.

I accept the landlord's testimony that the tenant was served with the 10 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 and has made periodic payment on outstanding rent which was accepted for use and occupancy only.

The tenant has not attended the arbitration. The tenant has not filed an Application for Dispute Resolution.

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.

The landlord testified the tenant remains in the unit.

#### *Order of Possession*

Based on the uncontradicted testimony and documentary evidence of the landlord, I grant the landlord an Order of Possession pursuant to sections 46 and 55.

#### *Monetary Order*

Based on the uncontradicted testimony and documentary evidence of the landlord, I grant the landlord a Monetary Order pursuant to section 67 for outstanding rent as requested.

#### *Filing Fee*

As the landlord has been successful in this application, I award the landlord reimbursement of the filing fee of \$100.00 pursuant to section 72.

#### *Security deposit*

I authorize the landlord to apply the security deposit to the award pursuant to section 72.

#### *Summary of Award*

My award is summarized as follows.

ITEM	AMOUNT
Rent outstanding	\$2,000.00
Reimbursement filing fee	\$100.00
(Less security deposit)	(\$500.00)
<b>TOTAL</b>	<b>\$1,600.00</b>

Conclusion

The landlord is granted an Order of Possession effective on 2 days notice.

The landlord is granted a Monetary Order for \$1,600.00.

These Orders must be served on the tenant. The Orders may be registered and enforced in the Courts of the Province of BC.

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: May 30, 2022

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Residential Tenancy Branch