



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Kerr Properties  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNR-DR, OPR-DR

### Introduction

This hearing was reconvened in response to an application through the direct request proceedings by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for unpaid rent - Section 67;
2. An Order of Possession - Section 55; and
3. An Order to recover the filing fee for this application - Section 72.

In an interim decision dated March 7, 2022 (the “Interim Decision”) the matter was adjourned to this participatory hearing. The Tenant did not attend the hearing. I accept the Landlord’s evidence that the Tenant was served with the Interim Decision on March 12, 2022 by registered mail in accordance with the Interim Decision. The Landlord was given full opportunity under oath to be heard, to present evidence and to make submissions.

### Issue(s) to be Decided

Is the Landlord entitled to an order of possession?

Is the Landlord entitled to unpaid rent?

Is the Landlord entitled to recovery of the filing fee?

### Background and Evidence

The tenancy under written agreement started on March 1, 2020. Rent of \$1,900.00 is payable on either the first or fifteenth day of each month. At the outset of the tenancy the Landlord collected \$950.00 as a security deposit and \$950.00 as a pet deposit. The Tenant failed to pay rent for July, August, September and November 2021. On November 12, 2021 the Landlord gave the Tenant a 10-day notice to end tenancy for unpaid rent dated November 10, 2021 (the "Notice") by posting the Notice on the door. The Tenant did not pay the outstanding rent set out on the Notice and did not dispute the Notice. The Tenant has not paid rent for December 2021 and for January to June 2022 inclusive. The Landlord seeks an order of possession for June 30, 2022 and claims \$20,900.00 in unpaid rent.

### Analysis

Section 46 of the Act requires that upon receipt of a 10 notice to end tenancy for unpaid rent the tenant must, within five days, either pay the full amount of the arrears indicated on the notice or dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. If the tenant does neither of these two things, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice. Based on the Landlord's undisputed evidence I find that the Landlord gave the Tenant the Notice and that the Tenant did not dispute the Notice or pay the arrears. For these reasons I find that the Tenant is conclusively presumed to have accepted the end of the tenancy and must move out of the unit.

Section 55(2) of the Act provides that where a notice to end the tenancy has been given by the landlord, the tenant has not disputed the notice by making an application for dispute resolution and the time for making that application has expired, a landlord may request an order of possession. Based on the Landlord's undisputed evidence that the Tenant has not moved out of the unit and as the Landlord made the application seeking an order of possession, I find that the Landlord has substantiated an entitlement to an order of possession as requested.

Section 26 of the Act provides that a tenant must pay the rent when and as provided under the tenancy agreement whether or not the landlord complies with this Act, the regulations or the tenancy agreement. Based on the undisputed evidence of the amount of rent payable and that the Tenant has not paid the rent for July, August, September, November, and December 2021 and for January to June 2022 inclusive I find that the Landlord has substantiated an entitlement to unpaid rent of **\$20,900.00**.

As the Landlord's application has been successful, I find that the Landlord is entitled to recovery of the **\$100.00** filing fee for a total entitlement of **\$21,000.00**. Deducting the combined security and pet deposit of **\$1,900.00** plus zero interest from the Landlord's entitlement leaves **\$19,100.00** owed to the Landlord.

#### Conclusion

**I grant** an Order of Possession to the Landlord effective 1:00 p.m. on June 30, 2022. The Tenant must be served with this **Order of Possession**. Should the Tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

**I order** that the Landlord retain the **deposit** and interest of \$1,900.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the balance due of **\$19,100.00**. If necessary, this order may be filed in the Small Claims 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 Act.

Dated: June 07, 2022

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Residential Tenancy Branch