



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 0974971 BC LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

### **Dispute Codes**

OPR-DR, MNR-DR, FFL

### **Introduction**

This hearing was initiated by way of a Direct Request Proceeding but was adjourned to this participatory hearing by the Adjudicator who initially considered the Application for Dispute Resolution.

This participatory hearing was convened to consider the Landlord's application for an Order of Possession, for a monetary Order for unpaid rent, and to recover the fee for filing this Application for Dispute Resolution.

The Agent for the Landlord stated that on February 17, 2022 the Dispute Resolution Package and evidence submitted to the Residential Tenancy Branch on February 11, 2022 was sent to the Tenant, via registered mail. The Tenant acknowledged receiving these documents and the evidence was accepted as evidence for these proceedings.

The Agent for the Landlord stated that on March 18, 2022 notice of this hearing and evidence submitted to the Residential Tenancy Branch on March 16, 2022 was sent to the Tenant, via registered mail. The Tenant acknowledged receiving these documents and the evidence was accepted as evidence for these proceedings.

The Agent for the Landlord stated that on June 07, 2022 evidence that was submitted to the Residential Tenancy Branch on June 06, 2022 posted on the Tenant's door. The Tenant acknowledged receiving these documents and the evidence was accepted as evidence for these proceedings.

The Tenant submitted evidence to the Residential Tenancy Branch on June 17, 2022. The Tenant stated that this evidence was not served to the Landlord. As such, the evidence was not accepted as evidence for these proceedings.

The participants were given the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions. Each participant affirmed that they would speak the truth, the whole truth, and nothing but the truth during these proceedings.

The participants were advised that the Residential Tenancy Branch Rules of Procedure prohibit private recording of these proceedings. Each participant affirmed they would not record any portion of these proceedings.

### Preliminary Matter

The Agent for the Landlord applied to amend the Application for Dispute Resolution to include unpaid rent from May and June of 2022.

The Tenant did not oppose the amendment. She stated that she expected that all rent currently due would be discussed at the proceedings.

As the Tenant anticipated that the Landlord would seek to recover all of the rent that is currently due, including unpaid rent that has accrued since the Application for Dispute Resolution was filed, I grant the application to amend the monetary claim to include all rent that is currently due.

### Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession and/or to a monetary Order for unpaid rent?

### Background and Evidence

The Agent for the Landlord and the Tenant agree that:

- The tenancy began on June 01, 2021;
- Rent of \$1,460.00 is due by the first day of each month;
- The Tenant did not pay rent when it was due on January 01, 2022;
- Rent for January of 2022 was not paid, in full, until January 26, 2022;

- In April of 2022 the Tenant made 4 payments of \$700.00, which was applied to rent due;
- In May of 2022 the Tenant made 2 payments of \$700.00, which was applied to rent due;
- No rent payments have been made since May 13, 2022;
- The Tenant currently owes \$60.00 in rent for May of 2022;
- No rent has been paid for June of 2022; and
- The Landlord did not give the Tenant any indication that the tenancy would continue if the Tenant paid the outstanding rent.

The Agent for the Landlord stated that a Ten Day Notice to End Tenancy for Unpaid Rent or Utilities, which had a declared effective date of January 15, 2022, was posted on the front door of the rental unit on January 05, 2022. The Notice declared that the Tenant is presumed to have accepted that the tenancy is ending and that the Tenant must move out of the rental unit by the date set out in the Notice unless the Tenant pays the outstanding rent or files an Application for Dispute Resolution within five days of the date they are deemed to have received the Notice.

The Tenant stated that she located the Ten Day Notice to End Tenancy for Unpaid Rent or Utilities on January 05, 2022 or January 06, 2022, and that she did not file an Application for Dispute Resolution to dispute it.

### Analysis

Section 26(1) of the *Act* requires tenants to pay rent to their landlord.

On the basis of the undisputed evidence, I find that the Tenant was required to pay rent of \$1,460.00 by the first day of each month and that she did not pay the rent that was due on January 01, 2022, in full, until January 26, 2022.

If rent is not paid when it is due, section 46(1) of the *Act* entitles landlords to end the tenancy within 10 days if appropriate notice is given to the tenant.

On the basis of the undisputed evidence, I find that a Ten Day Notice to End Tenancy for Unpaid Rent or Utilities, was posted on the door of the rental unit on January 05, 2022 which declared that the Tenant must vacate the unit by January 15, 2022. I find

this serves as proper notice that the Landlord was ending the tenancy pursuant to section 46(1) of the *Act*.

Section 46(4) of the *Act* stipulates that a tenant has five days from the date of receiving the Ten Day Notice to End Tenancy for Unpaid Rent or Utilities to either pay the outstanding rent or to file an Application for Dispute Resolution to dispute the Notice to End Tenancy. In the circumstances before me I have no evidence that the Tenant exercised either of these rights and, pursuant to section 46(5) of the *Act*, I find that the Tenant accepted that the tenancy has ended. I therefore grant the Landlord an Order of Possession that is effective two days after it is served upon the Tenant.

As the Tenant remained in possession of the rental unit throughout May of 2022, I find that she is obligated to pay rent for that month. As the Tenant still owes \$60.00 in rent for May of 2022, I find that she must pay that amount to the Landlord.

As the Tenant remains in possession of the rental, I find that she is obligated to pay rent until today, June 23, 2022, at a per diem rate of \$48.67, which is \$1,119.41. I am unable to award compensation for rent due for any period after today, as it is entirely possible the Tenant will vacate the unit today. The Landlord retains the right to seek additional compensation of the rental unit is not vacated.

I find that the Application for Dispute Resolution has merit and that the Landlord is entitled to recover the fee for filing this Application for Dispute Resolution.

### Conclusion

The Landlord has been granted an Order of Possession that is effective **two days after it is served upon the Tenant**. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

The Landlord has established a monetary claim, in the amount of \$1,279.41, which includes \$1,179.41 in unpaid rent and \$100.00 in compensation for the fee paid to file this Application for Dispute Resolution. I therefore grant the Landlord a monetary Order for \$1,279.41. In the event that the Tenant does not voluntarily comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia 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 *Residential Tenancy Act*.

Dated: June 23, 2022

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Residential Tenancy Branch