



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding KARE PROPERTY MANAGEMENT GROUP LTD. and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes OPR-DR, OPRM-DR, FFL

### Introduction

This matter commenced by way of an ex parte Direct Request Proceeding pursuant to section 55(4) of the Residential Tenancy Act (the Act). However, in an Interim Decision dated July 21, 2022, an adjudicator ordered that the matter be adjourned to a participatory hearing.

The Landlord seeks an order of possession and a monetary order for unpaid rent, and to recover the filing fee, pursuant to the Act. The Landlord was represented at the hearing by EV, an agent. The Tenant attended the hearing on his own behalf. Both EV and the Tenant provided a solemn affirmation.

On behalf of the Landlord, EV testified that the Tenant was served with a Notice of Dispute Resolution Proceeding package by registered mail on July 25, 2022. The Tenant acknowledged receipt. No issues were raised with respect to service or receipt of these documents during the hearing. The parties were represented or were in attendance and were prepared to proceed. Therefore, pursuant to section 71 of the Act, I find these documents are sufficiently served for the purposes of the Act.

The Tenant did not submit documentary evidence in response to the Landlord's application.

Those in attendance were advised that Rule of Procedure 6.11 prohibits the recording of dispute resolution hearings.

The parties were given the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issues to be Decided

1. Is the Landlord entitled to an order of possession for unpaid rent?
2. Is the Landlord entitled to a monetary order for unpaid rent?
3. Is the Landlord entitled to recover the filing fee?

### Background and Evidence

I have reviewed all written submissions and evidence before me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this decision.

The parties agreed the tenancy began on December 9, 2016. Currently, rent of \$600.00 per month is due on the first day of each month. The Tenant paid a security deposit of \$300.00 which the Landlord holds. The Tenant suggested a pet damage deposit may have been paid but nothing turns on that assertion for the purposes of this hearing. A copy of the tenancy agreement was submitted into evidence.

EV testified the Tenant has not paid rent when due since November 2021. Accordingly, the Landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated May 10, 2022 (the 10 Day Notice). The 10 Day Notice was signed and dated, gives the address of the rental unit, states the effective date of the notice, states the grounds for ending the tenancy, and is in the approved form. Although the 10 Day Notice indicates \$5,550.00 was outstanding at that time, EV confirmed the amount of rent due, less late-payment fees not provided for in the tenancy agreement, was \$5,300.00.

EV testified the 10 Day Notice was served on the Tenant by attaching a copy to the Tenant's door on May 10, 2022. A copy of the 10 Day Notice was submitted into evidence. The Tenant did not dispute service and receipt of the 10 Day Notice.

On behalf of the Landlord, EV testified that the Tenant also did not pay rent when due on June 1, July 1, and August 1, 2022. As a result, rent of \$7,100.00 is currently outstanding ( $\$5,300.00 + \$600.00 + \$600.00 + \$600.00 = \$7,100.00$ ). The Tenant continues to occupy the rental unit.

The Tenant acknowledged that rent has not been paid as alleged. He testified that he is a good tenant but has had a difficult year due to health issues impacting his ability to work. He testified that he is willing to pay rent but is “between a rock and a hard place.”

### Analysis

Based on the affirmed oral testimony and documentary evidence, and on a balance of probabilities, I find:

Section 26(1) of the Act confirms:

A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

The Landlord sought an order of possession. In this case, EV testified, and I find, that the 10 Day Notice was served on the Tenant by attaching a copy to the Tenant's door on May 10, 2022. Pursuant to sections 88 and 90 of the Act, documents served in this manner are deemed to be received three days later. Therefore, I find the 10 Day Notice is deemed to have been received by the Tenant on May 13, 2022.

Accordingly, pursuant to section 46(4) of the Act, the Tenant had until May 18, 2022 to either pay rent in full or to dispute the 10 Day Notice by filing an application for dispute resolution. However, there was no evidence the Tenant disputed the 10 Day Notice, and the undisputed testimony of EV confirms rent has not been paid. As a result, I find the Landlord is entitled to an order of possession for unpaid rent, which will be effective two (2) days after it is served on the Tenant.

Further, I find the Landlord has established an entitlement to unpaid rent in the amount of \$7,100.00 to August 31, 2022.

Having been successful, I also find the Landlord is entitled to recover the \$100.00 filing fee paid to make the application.

Pursuant to section 67 of the Act, I grant the Landlord a monetary order in the amount of \$7,200.00, which is comprised of \$7,100.00 in unpaid rent and \$100.00 in recovery of the filing fee.

### Conclusion

The Landlord is granted an order of possession, which will be effective two days after it is served on the Tenant. The order of possession may be filed in and enforced as an order of the Supreme Court of British Columbia.

The Landlord is granted a monetary order in the amount of \$7,200.00. The monetary order may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

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: August 26, 2022

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Residential Tenancy Branch