



# 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 matter was convened to hear an Application for Dispute Resolution filed by the Landlord. The Landlord sought the following relief, pursuant to the Residential Tenancy Act (the Act):

- an order of possession for unpaid rent;
- a monetary order for unpaid rent;
- an order permitting to retain the security deposit held; and
- an order granting recovery of the filing fee.

The Landlord attended the hearing and provided affirmed testimony. The Tenant did not attend the hearing.

The Landlord testified that the Notice of Dispute Resolution Proceeding package was served on the Tenant by registered mail on August 6, 2022. In support, the Landlord submitted copies of Canada Post registered mail receipts confirming the date and time of purchase and including the tracking number. Pursuant to section 89 and 90 of the Act, I find the Tenant is deemed to have received these documents on August 11, 2022, five days after they were mailed.

As noted above, the Tenant did not attend the hearing or submit documentary evidence in response to the Landlord's application.

The Landlord was 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, and to which I was referred. 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 an order permitting the Landlord to retain the security deposit?
4. 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 Landlord testified the tenancy commenced on December 5, 2021. The tenancy agreement submitted into evidence indicates that rent of \$5,500.00 per month is due on the first day of each month. However, the Landlord testified that the Tenant was obligated to pay discounted rent of \$5,225.00 per month for the first year because they agreed to a one-year fixed term. The Landlord confirmed the Tenant paid a security deposit of \$5,500.00 which the Landlord holds.

The Landlord testified the Tenant did not pay rent when due on July 1, 2022. Copies of a bank statement and the returned cheque were submitted in support. Accordingly, the Landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities for unpaid rent of \$5,225.00 (the 10 Day Notice). A copy of the 10 Day Notice was submitted into evidence. The 10 Day Notice is signed and dated by the landlord, gives the address of the rental unit, states the effective date, states the grounds for ending the tenancy, and is in the approved form.

The Landlord testified that the 10 Day Notice was served on the Tenant by email on July 7, 2022. Copies of a signed Address for Service form and an email to the Tenant were submitted in support.

The Landlord testified further that the Tenant did not pay rent when due on August 1, 2022, and that rent totaling \$10,450.00 is currently outstanding.

The Tenant did not attend the hearing to dispute the Landlord's evidence.

### Analysis

Based on the unchallenged and 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.

I find the 10 Day Notice was served on the Tenant by email on July 7, 2022. Pursuant to sections 88 and 90 of the Act, documents served in this manner are deemed to have been received three days later. I find the 10 Day Notice is deemed to have been received on July 10, 2022. Therefore, pursuant to section 46(4) of the Act, the Tenant had until July 15, 2022 to either pay rent in full or to dispute the 10 Day Notice. I find that the Tenant did neither. As the Tenant did not pay rent when due on July 1 and August 1, 2022, I find the Landlord is entitled to an order of possession. The order of possession will be effective two days after it is served on the Tenant.

In addition, I find the Landlord has demonstrated an entitlement to a monetary award of \$10,450.00 for unpaid rent to August 31, 2022. I also find the Landlord is entitled to retain the security deposit held in partial satisfaction of the claim for unpaid rent, and is entitled to recover the \$100.00 filing fee paid to make the application. The Landlord remains at liberty to reapply for any additional losses arising from the tenancy.

Pursuant to section 67 of the Act, I grant the Landlord a monetary order in the amount of \$5,050.00, which has been calculated as follows:

<b>Claim</b>	<b>Allowed</b>
Unpaid rent (July 1 and August 1):	\$10,450.00
Filing fee:	\$100.00
<i>LESS</i> security deposit:	(\$5,500.00)
<b>TOTAL:</b>	<b>\$5,050.00</b>

### Conclusion

The Landlord is granted an order of possession which will be effective two days after service 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 \$5,050.00. 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: September 1, 2022

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Residential Tenancy Branch