



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Introduction**

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- an order of possession for landlord's use of property pursuant to section 55;
- an order of possession for unpaid rent and utilities pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67;
- a monetary order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The hearing was conducted by conference call. The tenant did not attend this hearing, although I waited until 9:50 a.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 9:30 a.m. The landlord attended the hearing and was given a full opportunity to provide affirmed testimony, to present evidence and to make submissions.

The landlord testified that on July 8, 2022, a copy of the Application for Dispute Resolution and Notice of Hearing was sent to the tenant by registered mail. A registered mail tracking number was provided in support of service. The landlord also sent amended applications and evidence submissions to the tenant on various dates after the initial application. The landlord also provided registered mail tracking numbers as proof of service for each of these.

Based on the above evidence, I am satisfied that the tenant was served with the Application for Dispute Resolution and Notice of Dispute Resolution Hearing pursuant to sections 89 & 90 of the Act. The hearing proceeded in the absence of the tenant.

During the hearing, the landlord advised that since the filing of the application, the tenant was caught up to date for occupancy/rent payments. The landlord advised that

only utilities payments were outstanding, but the landlord agreed to deal with any outstanding monetary claims at the end of the tenancy. This portion of the landlord's claim was withdrawn.

### Issues

Is the landlord entitled to an order of possession for landlord's use of property (the "Two Month Notice")?

Is the landlord entitled to recover its filing fee?

### Background and Evidence

The tenancy began on February 1, 2020. The current monthly rent is \$1421.00 payable on the 1<sup>st</sup> day of each month. The tenant paid a security deposit of \$600.00 at the start of the tenancy which the landlord continues to hold.

The landlord testified that on April 23, 2022, the tenant was served with the Two Month Notice by posting a copy to the door of the rental premises. A witnessed Proof of Service form of the Two Month Notice was provided on file.

### Analysis

Section 49 of the Act contains provisions by which a landlord may end a tenancy for Landlord Use of Property by giving a notice to end tenancy. Under this section, the tenant may make a dispute application within fifteen days of receiving the Two Month Notice. If the tenant does not make an application for dispute within fifteen days, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Two Month Notice. A notice given under this section must comply with the form and content requirements of section 52 of the Act.

Section 52 of the Act requires as follows:

In order to be effective, a notice to end a tenancy must be in writing and must:

- (a) be signed and dated by the landlord or tenant giving the notice,
- (b) give the address of the rental unit,
- (c) state the effective date of the notice,

- (d) except for a notice under section 45 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy, and
- (e) when given by a landlord, be in the approved form.

Pursuant to section 55(2)(b) of the *Act*, a landlord may request an order of possession of a rental unit if: 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.

I am satisfied that the tenant was deemed served with the Two Month Notice on April 26, 2022, three days after its posting, pursuant to sections 88 & 90 of the *Act*. As the tenants did not make an application to dispute the notice within 15 days of receiving it, the tenants is conclusively presumed to have accepted the end of the tenancy.

I find that the Two Month Notice served by the landlord is in compliance with the form and content requirements of section 52 of the *Act*. The Notice was signed and dated by the landlord, provided the address of the rental unit, stated the effective date of the Notice, stated the grounds for ending the tenancy and was in the approved form.

Therefore, the landlord is entitled to an Order of Possession pursuant to section 55 of the *Act*.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee paid for this application. This amount can be retained from the security deposit.

### Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant. Should the tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

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 15, 2022

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Residential Tenancy Branch