



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding DDP Real Estate  
Holdings GP Inc  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR-DR, MNR-DR, FFL

### Introduction

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

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

In an interim decision dated August 31, 2022 (the “Interim Decision”), this matter was adjourned from the direct request proceedings. The Tenant did not attend the hearing. I accept the Landlord’s evidence that the Tenant was served with the Interim Decision by registered mail on September 3, 2022 in accordance with the Interim Decision. Section 90 of the Act provides that a document served in accordance with section 89 of the Act is deemed to be received if given or served by mail, on the 5th day after it is mailed. Given the evidence of registered mail I find that the Tenant is deemed to have received the Interim Decision on September 8, 2022. The Landlord was given full opportunity 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 October 15, 2020. The Landlord purchased the property in June 2022. Rent of \$1,200.00 is payable on the first day of each month. At the outset of the tenancy the Landlord collected \$600.00 as a security deposit. The Tenant failed to pay rent for July 2022 and on July 6, 2022 the Landlord served the Tenant with a 10-day notice to end tenancy for unpaid rent dated July 6, 2022 (the "Notice") by registered mail. On July 20, 2022 the Landlord texted the Tenant that the Notice had been sent by registered mail. The Notice was not collected and on July 26, 2022 was enroute back to the Landlord. On July 28, 2022 the Tenant paid the outstanding rent and the Landlord issued a receipt for "use and occupancy only". The Tenant paid the August 2022 rent, and the Landlord issued another receipt "use and occupancy only". The Tenant failed to pay rent for September and October 2022. The Tenant has not moved out of the unit. The Landlord seeks an order of possession to be effective October 15, 2022 and claims unpaid rent.

### Analysis

Section 90(a) of the Act provides that a document given or served in accordance with section 88 [*how to give or serve documents generally*] or 89 [*special rules for certain documents*], unless earlier received, is deemed to be received, if given or served by mail, on the fifth day after it is mailed. 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. The Tenant did not attend the hearing to dispute the Landlord's evidence. Given the Landlord's undisputed evidence of having sent the Notice by registered mail on July 6, 2022 I find that the Notice is deemed to have been received on July 11, 2022. Given the Landlord's evidence of having informed the Tenant of the Notice being sent by registered mail before the Notice was returned to the Landlord, I consider that the Tenant failed to collect the mail at their own peril and that such failure does not affect the deemed provisions for having received the Notice. Given the undisputed evidence

that the Tenant did not dispute the Notice and has not moved out of the unit I find that the Landlord is entitled 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. Rent is payable until a tenancy ends. Based on the Landlord's evidence of unpaid rent for September 2022, I find that the Landlord has substantiated unpaid rent of **\$1,200.00**. As the Landlord will have possession of the unit on October 15, 2022, I find that the Landlord has substantiated unpaid rent for this month of **\$600.00**. As the Landlord's application has met with success, I find that the Landlord is entitled to recovery of the **\$100.00** filing fee for a total entitlement of **\$1,900.00**. Deducting the security deposit of **\$600.00** plus zero interest leaves **\$1,300.00** owed by the Tenant to the Landlord.

#### Conclusion

**I grant** an Order of Possession to the Landlord effective 1:00 p.m. on October 15, 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 \$600.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the balance due of **\$1,300.00**. 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: October 03, 2022

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Residential Tenancy Branch