



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, OPM, MNR, MNDC, FF

### Introduction

This hearing convened in response to the landlord's application for dispute resolution (application) seeking remedy under the Residential Tenancy Act (Act) for:

- an order of possession of the rental unit pursuant to a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (Notice) served to the tenants;
- an order of possession of the rental unit based upon an agreement by the tenants to vacate;
- a monetary order for unpaid rent;
- compensation for a monetary loss or other money owed; and
- recovery of the cost of the filing fee.

The landlord and the landlord's agent (agent) attended the hearing and were affirmed. The tenants did not attend the hearing.

The agent testified that she served each tenant with the application for dispute resolution, evidence, and Notice of Hearing (application package) by registered mail on July 15, 2022, as well as their amended application for additional monetary compensation for unpaid rent on October 22, 2022. The agent provided the Canada Post Customer Receipts containing the Tracking Numbers to confirm the mailings.

I accept the landlord's evidence and find that the tenants were served notice of this hearing in a manner complying with section 89(1) of the Act and the hearing proceeded in the tenants' absence.

The landlord was provided the opportunity to present their evidence orally and make submissions to me. A summary of the testimony is provided below and includes only that which is relevant to the application.

#### Issue(s) to be Decided

Is the landlord entitled to an order of possession of the rental unit due to unpaid rent and to a monetary order for unpaid rent?

Is the landlord entitled to recover the cost of the filing fee?

#### Background and Evidence

The landlord testified that the tenancy began on February 1, 2021, that monthly rent is \$1,200 due on the first day of the month and that the tenants did not pay a security deposit.

The agent submitted that on June 7, 2022, she served each tenant with the Notice, by personal service. The Notice showed a total rent deficiency of \$2,400 due as of June 1, 2022. The effective vacancy date listed on the Notice was June 17, 2022. Filed in evidence was a copy of the Notice.

The landlord stated that the tenants have not vacated the rental unit and did not pay the amount listed on the Notice within five (5) days. The landlord testified that the tenants have made no further monthly rent payments and that as of the date of the hearing, the tenants owe the amount of \$8,400 in outstanding rent. This amount was also reflected on the landlord's amended application, which was served on the tenants by registered mail.

Filed in evidence was a revised monetary order worksheet and the tenant ledger sheet showing payments prior to the Notice.

#### Analysis

After reviewing the relevant evidence, I provide the following findings, based upon a balance of probabilities:

Order of Possession-

Under section 26 of the Act, a tenant is required to pay rent in accordance with the terms of the tenancy agreement and is not permitted to withhold rent without the legal right to do so.

When a tenant fails to pay rent pursuant to the terms of the tenancy agreement, the landlord may serve the tenant a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities.

The Notice sets out for the benefit of the tenants that the Notice would be cancelled if the rent was paid within five (5) days. The Notice also explained that alternatively the tenants had five days to dispute the Notice by making an application for dispute resolution.

I have no evidence before me that the tenants applied to dispute the Notice.

I find the landlord submitted sufficient, unopposed evidence to prove that the tenants were served the Notice, owed the rent listed, did not pay the outstanding rent, or file an application for dispute resolution in dispute of the Notice within five days of service.

I find the tenants are conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice, in this case, June 17, 2022. I therefore order that this tenancy ended on June 17, 2022.

As a result, I find that the landlord is entitled to and I grant an order of possession of the rental unit pursuant to section 55(2) of the Act, **effective two days after service** of the order upon the tenants.

Should the tenants fail to vacate the rental unit pursuant to the terms of the order after being served, the order may be filed in the Supreme Court of British Columbia for enforcement as an order of that Court.

The tenants are **cautioned** that costs of such enforcement, **such as bailiff fees**, are subject to recovery from the tenants.

Monetary claim-

I find that the landlord submitted sufficient, unopposed evidence to prove that the tenants owe the total amount of unpaid rent of **\$8,400**, due under the tenancy agreement. I find the landlord has established a monetary claim in that amount.

Due to their successful application, I grant the landlord recovery of their filing fee of **\$100**.

I grant the landlord a final, legally binding monetary order pursuant to section 67 of the Act for the balance due in the amount of **\$8,500**.

Should the tenants fail to pay the landlord this amount without delay after being served the order, the monetary order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an Order of that Court. The tenants are cautioned that costs of such enforcement are subject to recovery from the tenants.

As I have enforced the Notice by issuing an order of possession to the landlord, it was not necessary for me to consider the landlord's request for the same based upon a mutual agreement the parties signed.

Conclusion

The landlord's application for an order of possession of the rental unit and a monetary order for unpaid rent and the filing fee has been granted in the above terms.

I ordered the tenancy ended on June 17, 2022.

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*. Pursuant to section 77(3) of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: November 14, 2022

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Residential Tenancy Branch