



# 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 hearing dealt with an application filed by the landlord pursuant the *Residential Tenancy Act* (the “Act”) for:

- An order of possession for unpaid rent pursuant to sections 46 and 55;
- A monetary order for unpaid rent and authorization to withhold a security deposit pursuant to sections 67 and 38;
- Authorization to recover the filing fee from the other party pursuant to section 72.

The tenant did not attend this hearing, although I left the teleconference hearing connection open throughout the hearing which commenced at 1:30 p.m. and ended at 1:42 p.m. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

The landlord attended the hearing, represented by property manager, CI (“landlord”). The landlord was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The landlord testified that he sent the Notice of Dispute Resolution Proceedings package to the tenant via registered mail on August 19, 2022. He sent an evidence package to the tenant via registered mail on December 9, 2022, as well. Both tracking numbers are recorded on the cover page of this decision. I deem the tenant served with the Notice of Dispute Resolution Proceedings package on August 14, 2022, the fifth day after it was sent via registered mail pursuant to sections 89 and 90 of the Act.

### **Issue(s) to be Decided**

Is the landlord entitled to an Order of Possession and a monetary order for unpaid rent?  
Can the landlord retain the tenant’s security deposit?  
Can the landlord recover the filing fee?

### Background and Evidence

A copy of the tenancy agreement was provided as evidence. The tenancy began on June 1, 2016 with rent set at \$985.78 per month. A security deposit of \$492.00 was collected at the commencement of the tenancy. The tenant's rent is currently \$1,089.50.

The landlord testified that the tenant's rent is paid from 2 sources, BC Housing and the Ministry of Social Housing. On July 1<sup>st</sup>, the ministry stopped paying their portion of the rent, although ultimately the tenant is responsible for paying the entirety of the rent in accordance with part 3 of the tenancy agreement. As of January 2022, the tenant was in arrears of rent by \$326.00. Each month thereafter, the tenant was short in paying rent by \$296.00. In evidence the landlord provided a tenant ledger and a monetary order worksheet to show the arrears accruing. By July 1, 2022, the tenant was in arrears totalling \$2,102.00.

On July 19, 2022, the landlord sent the tenant a 10 Day Notice to End Tenancy for Unpaid Rent/Utilities via registered mail. The landlord testified that the tenant did not file an application to dispute the notice and the tenant did not pay the arrears within 5 days of being served with it. BC Housing has continued to pay a portion of the tenant's rent, however each month, the rent is short by \$296.00. As of December 30<sup>th</sup>, the date of today's hearing, the landlord alleges the tenant is in arrears equalling \$4,375.50. The landlord seeks to recover the full amount of arrears from the tenant.

### Analysis

I deem the tenant effectively served with the 10 Day Notice to End Tenancy for Unpaid Rent/Utilities on July 24, 2022, the fifth day after it was sent to him via registered mail in accordance with sections 88 and 90 of the Act.

The tenant failed to pay the full rent identified as owing on the Notice or make an application to dispute it within five days of receiving it, pursuant to section 46(4) of the Act. In accordance with section 46(5) of the Act, the tenant's failure to take either of these actions within five days ended his tenancy on the effective date of the Notice. In this case, this required the tenant to vacate the premises by August 3<sup>rd</sup>, 2022, the effective date stated in the Notice.

The landlord sought an Order of Possession pursuant to section 55(2) of the Act and I grant the landlord an Order of Possession effective 2 days after service upon the tenant. Pursuant to section 55(4), the landlord is granted a monetary order in the amount of \$3,582.00 calculated as follows:

Arrears from	Amount
January 2022	\$326.00
February 2022	\$296.00
March 2022	\$296.00
April 2022	\$296.00
May 2022	\$296.00
June 2022	\$296.00
July 2022	\$296.00
August 2022	\$296.00
September 2022	\$296.00
October 2022	\$296.00
November 2022	\$296.00
December 2022	\$296.00
Total	\$3,582.00

The landlord is also entitled to recover the \$100.00 filing fee as the application was successful. The landlord continues to hold the tenant's security deposit of \$492.00. In accordance with the offsetting provision of section 72, the landlord may retain the tenant's full security deposit in partial satisfaction of the monetary order. [\$3,582.00 + \$100.00 - \$492.00 = \$3,190.00]

### Conclusion

I grant an Order of Possession to the landlord effective **2 days after service on the tenant**. Should the tenants or anyone on the premises fail to comply with this Order, this Order may be filed and enforced in the Supreme Court of British Columbia.

I award the landlord a monetary order in the amount of \$3,190.00.

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: December 30, 2022

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Residential Tenancy Branch