



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding ALEXANDRA HOUSING SOCIETY  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes OPR, MNRL-S, FFL

### Introduction

This matter was convened to address an Application for Dispute Resolution filed by the Landlord on November 21, 2022. 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 was represented at the hearing by KZ, an agent, who provided affirmed testimony. The Tenant did not attend the hearing.

On behalf of the Landlord, HZ testified that the Notice of Dispute Resolution Proceeding package was served on the Tenant by registered mail on November 30, 2022. In support, the Landlord referred to tracking information before him. This information was used to check the Canada Post website and confirm service by registered mail on that date. Pursuant to sections 89 and 90 of the Act, I find the Tenant is deemed to have received these documents on December 5, 2022, five days after they were mailed.

On behalf of the Landlord, KZ was given a full 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.

On behalf of the Landlord, KZ confirmed the tenancy began on March 1, 2022. Rent of \$1,300.00 per month is due on the first day of each month. The Tenant paid a security deposit of \$650.00, which the Landlord holds. A copy of the tenancy agreement was submitted into evidence.

KZ testified that the Tenant did not pay rent when due on July 1, 2022. Accordingly, the Landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated July 18, 2022 (the 10 Day Notice). At that time, rent of \$2,600.00 remained unpaid. KZ testified that the 10 Day Notice was served on the Tenant by attaching a copy to the Tenant's door on July 18, 2022. A copy of the 10 Day Notice was submitted into evidence.

The Landlord submitted a Tenant Ledger for the period from March 1 to November 1, 2022 in support of unpaid rent. It indicates that after the 10 Day Notice was issued, a single rent payment of \$3,900.00 was received on September 28, 2022. However, KZ testified that no further payments have been received to date. Currently, rent of \$6,500.00 remains unpaid.

As noted above, 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 that a tenant must pay rent when due 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 attaching a copy to the Tenant's door on July 18, 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 by the Tenant on July 21, 2022. Therefore, pursuant to section 46(4) of the Act, the Tenant had until July 26, 2022 to pay rent in full or to dispute the 10 Day Notice. I find there is sufficient evidence before me to conclude that the Tenant did not pay rent in full within five days after receipt of the 10 Day Notice or dispute it. As a result, pursuant to section 46(5) of the Act, I find the Tenant is conclusively presumed to have accepted the tenancy ended on the effective date of the 10 Day Notice and must vacate the rental unit. I find the Landlord is entitled to an order of possession which 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 \$6,500.00 for unpaid rent to January 31, 2023. Having been successful, I find the Landlord is entitled to recover the \$100.00 filing fee paid to make the application. I also find the Landlord is entitled to retain the security deposit held in partial satisfaction of the claim.

Pursuant to section 67 of the Act, I grant the Landlord a monetary order in the amount of \$5,950.00, which has been calculated as follows:

Unpaid rent:	\$6,500.00
Filing fee:	\$100.00
<i>LESS</i> security deposit:	(\$650.00)
<b>TOTAL:</b>	<b>\$5,950.00</b>

Conclusion

The Landlord is granted an order of possession which will be effective two days after it is served 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 \$5,950.00. 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: January 31, 2023

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Residential Tenancy Branch