



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR-DR, MNR-DR, FFL

### Introduction

This hearing was scheduled to convene at 9:30 a.m. on August 24, 2023 concerning an application made by the landlord seeking an order of possession and a monetary order for unpaid rent or utilities and to recover the filing fee from the tenant for the cost of the application.

The landlord attended the hearing, gave affirmed testimony and provided evidentiary material in advance of the hearing. However, the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony and no one for the tenant joined the call.

The landlord advised that the tenant was served with the Notice of Dispute Resolution Proceeding and other documents personally on August 3, 2023 and has provided video evidence of that service. I am satisfied that the tenant has been served in accordance with the *Residential Tenancy Act*.

The landlord has also provided evidence on August 14, 2023 and August 23, 2023, which was not provided to the tenant. Any evidence that a party wishes to rely on must be provided to the other party as well, even if they already have a copy because it's important for all parties to know what I have before me. Since the late evidence has not been provided to the tenant, I decline to consider it. All other evidence of the landlord has been reviewed and is considered in this Decision.

### Issue(s) to be Decided

- Has the landlord established that the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities was issued in accordance with the *Residential Tenancy Act*?
- Has the landlord established a monetary claim for unpaid rent?

### Background and Evidence

The landlord testified that this fixed-term tenancy began on June 18, 2022 and reverted to a month-to-month tenancy after June 17, 2023 and the tenant still resides in the rental unit. Rent in the amount of \$1,550.00 is payable on the 1<sup>st</sup> day of each month. On June 3, 2022 the landlord collected a security deposit from the tenant in the amount of \$775.00 which is still held in trust by the landlord, and no pet damage deposit was collected. The rental unit is the lower part of a house and the landlord resides in the upper level. A copy of the tenancy agreement has been provided for this hearing.

The landlord further testified that on July 17, 2023 the landlord served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities by posting it to the door of the rental unit. A copy has been provided for this hearing and it is dated July 17, 2023 and contains an effective date of vacancy of July 27, 2023 for unpaid rent in the amount of \$1,550.00 that was due on July 1, 2023.

On August 1, 2023 the tenant paid \$1,550.00 for July's rent as well as \$950.00 for August's rent, leaving arrears outstanding of \$600.00. Utilities are also overdue amounting to \$187.70, but copies of utility bills have not been provided for this hearing.

The landlord seeks an order of possession and a monetary order for the overdue rent. The tenant has not served the landlord with an Application for Dispute Resolution disputing the 10 Day Notice.

### Analysis

The *Residential Tenancy Act* specifies that once served, or deemed served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the Notice), the tenant has 5 days to pay the rent in full or dispute the Notice. If the tenant fails to do either, the tenant is conclusively presumed to have accepted the end of the tenancy.

In this case, I am satisfied that the tenant was served with the Notice on July 17, 2023 by posting it to the door of the rental unit, which is deemed to have been served 3 days later, or July 20, 2023. The tenant paid the outstanding rent, but not within 5 days, and has fallen into arrears again. Therefore, I find that the landlord is entitled to an order of possession. Since the effective date of vacancy, changed to the nearest date that complies with the law, being July 30, 2023, has passed, I grant the order of possession effective on 2 days notice to the tenant. The tenant must be served with the order

which may be enforced by filing a copy of the order with the Supreme Court of British Columbia.

I am also satisfied that the tenant is in arrears for August's rent of \$600.00, and I grant a monetary order in favour of the landlord in that amount.

Since the landlord has been successful with the application, the landlord is also entitled to recovery of the \$100.00 filing fee.

The tenant must be served with the order, which may be filed in the Provincial Court of British Columbia, Small Claims division and enforced as an order of that Court.

### Conclusion

For the reasons set out above, I hereby grant an order of possession in favour of the landlord effective on 2 days notice to the tenant.

I further grant a monetary order in favour of the landlord as against the tenant pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$700.00.

This order is final and binding and may be enforced.

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: August 24, 2023

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Residential Tenancy Branch