



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

## **DECISION**

Dispute Codes      OPR, MNRL-S, FFL

### Introduction

The Landlord filed an Application for Dispute Resolution (the “Application”) on July 31, 2023 seeking an order of possession for the rental unit, to recover the money for unpaid rent, and reimbursement of the Application filing fee. The matter proceeded by way of a hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on September 18, 2023.

In the conference call hearing I explained the process and provided the attending party the opportunity to ask questions. An agent for the Landlord (hereinafter, the “Landlord”) attended the telephone conference call hearing; the Tenants (i.e., the “Tenant”) did not attend.

### Preliminary Matter

To proceed with this hearing, I must be satisfied that the Landlord made reasonable attempts to serve the Tenant with this Notice of Dispute Resolution Proceeding. This means the Landlord must provide proof they served the document using a method allowed under s. 89(2) of the *Act*, and I must accept that evidence.

The Landlord provided evidence that they used registered mail for this purpose. They provided a registered mail tracking numbers sent on the day they received the documentation from the Residential Tenancy Branch, August 4.

Based on the submissions of the Landlord, I accept they served the Tenant the Notice of Dispute Resolution Proceeding, and their associated evidence, in a manner complying with s. 89(2)(b) of the *Act*. The hearing proceeded in the Tenant’s absence. I deem the documents received on August 9, as per s. 90(a) of the *Act*.

### Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession for unpaid rent pursuant to s. 55 of the *Act*?

Is the Landlord entitled to monetary compensation for unpaid rent pursuant to s. 67 of the *Act*?

Is the Landlord entitled to reimbursement of the Application filing fee pursuant to s. 72 of the *Act*?

### Background and Evidence

The Landlord applied for a tenancy agreement pursuant to the 10-Day Notice to End Tenancy for Unpaid Rent (the “10-Day Notice”). They presented that they served this to the Tenant on July 17, 2023 via registered mail. The Landlord provided a registered mail receipt with tracking number to show proof of this method of service.

The 10-Day Notice states that the Tenant had five days from the date received to pay the rent in full or apply for dispute resolution, or the tenancy would end on the vacancy date indicated, July 28, 2023.

The reason for the Landlord serving the 10-Day Notice was unpaid rent. As indicated on page 2 of the 10-Day Notice, this was \$1,100. A separate ledger showing no payments received for each of the months of July and August, 2023, confirms this basic amount, at \$1,100 owing for each of those months.

The Landlord applied for an Order of Possession pursuant to the 10-Day Notice, on the basis of the Tenant not paying the rent balance, and not applying for dispute resolution against the 10-Day Notice.

In the hearing the Landlord presented that they reached a separate settlement with the Tenant about rent amounts owing.

### Analysis

I accept the undisputed evidence before me that the Tenant failed to pay the rent owed in full by July 27, 2023, within the five days granted under s. 46(4) of the *Act*, and accounting for a 5-day deemed service period as per s. 90(a) of the *Act*. The Tenant did not dispute the 10-Day Notice within that five-day period.

Based on the foregoing, I find that the Tenant is conclusively presumed under s. 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the 10 Day Notice, July 28, 2023.

I find the Landlord withdrew the portion of their Application claiming for rent amounts, owing to a settlement. I dismiss this piece of the Landlord's Application, without leave to reapply.

The hearing itself was held on September 18, 2023, and the Landlord stated that the Tenant had moved out from the rental unit on August 16, 2023. The Landlord requested an Order of Possession should they need it; I so grant this Order of Possession to the Landlord based on the Tenant's non-payment and non-attendance at the hearing. This is an application of s. 46(5) of the *Act*, and the Landlord's form bearing the required elements as set in s. 52.

The Landlord was successful in this Application; therefore, I grant reimbursement to them of the \$100 Application filing fee.

### Conclusion

I grant an Order of Possession to the Landlord effective **two days after service of this Order** to the Tenant. Should the Tenant fail to comply with this Order, the Landlord may file this Order in the Supreme Court of British Columbia, where it may be enforced as an Order of that court.

Pursuant to s. 67 of the *Act*, I grant the Landlord a Monetary Order in the amount of \$100 for the fee. The Landlord is provided with this Order in the above terms and the Tenants must be served with **this Order** as soon as possible. Should the Tenants fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

I make this decision on the authority delegated to me by the Director of the Residential Tenancy Branch under s. 9.1(1) of the *Act*.

Dated: September 18, 2023

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Residential Tenancy Branch