



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute codes      OPR MNR

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- an order of possession for unpaid rent and utilities pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67;

This application was originally heard by way of a Direct Request Proceeding and on May 8, 2017 an interim decision was issued adjourning the application to be reconvened at a participatory hearing.

The hearing was conducted by conference call. The tenant did not attend this hearing, although I waited until 11:15 a.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 11:00 a.m. The landlord attended the hearing and was given a full opportunity to provide affirmed testimony, present evidence and make submissions.

The landlord testified that on May 14, 2017, he served the tenant with a copy of the Application for Dispute Resolution including the Notice of Hearing and Interim Decision by posting to the door of the rental unit and by sending a copy by regular mail.

Based on the above evidence, I am satisfied that the tenant was deemed served with the Application for Dispute Resolution, Notice of Hearing and Interim Decision pursuant to section 89 & 90 of the Act. The hearing proceeded in the absence of the tenant.

The landlord's application for a monetary order is dismissed with leave to reapply as the application for dispute resolution and notice of hearing was not served on the tenant by a method permitted under section 89 of the Act. The landlord served the application, Interim decision and Notice of Hearing by posting it to the door of the rental premises. Section 89 of the Act permits posting as a method of service for the purposes of an application for an order of possession but not for a monetary order.

### Issues

Is the landlord entitled to an order of possession for pursuant to a 10 Day Notice to End Tenancy for unpaid rent (the 10 Day Notice)?

### Background and Evidence

The tenancy began on November 3, 2016 with a monthly rent of \$1100.00 payable on the 1<sup>st</sup> day of each month. The tenant paid a security deposit of \$550.00 at the start of the tenancy which the landlord continues to hold.

The landlord testified that on April 8, 2017 a neighbor A.W. served the tenant with the 10 Day Notice by posting a copy to the door of the rental premises. The landlord was present and witnessed the 10 Day Notice being posted to the door.

The landlord testified the tenant did not pay the outstanding rent amount as indicated on the 10 Day Notice within 5 days and the entire amount plus rent for May and June 2017 is outstanding.

### Analysis

I am satisfied that the tenant was deemed served with the 10 Day Notice on April 11, 2017, three days after its posting, pursuant to sections 88 & 90 of the Act.

Section 46 of the Act requires that upon receipt of a 10 Day Notice the tenant must, within five days, either pay the full amount of the arrears indicated on the 10 Day Notice or dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If, as in the present case, the tenant does neither of these two things, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the 10 Day Notice, April 21, 2017.

I find that the 10 Day Notice issued by the landlord complies with the requirements of Section 52 of the Act, accordingly, the landlord is granted an Order of Possession pursuant to section 55 of the Act.

The landlord's application for outstanding rent is dismissed with leave to reapply.

### Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant. Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

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: June 20, 2017

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Residential Tenancy Branch