



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## DECISION

### Dispute Codes

OPR, MNR, MNSD, FF

### Introduction

This hearing proceeded by way of Direct Request Proceeding, pursuant to sections 55(4) and 74(2) of the *Residential Tenancy Act (Act)*, and dealt with an Application for Dispute Resolution by the Landlord for an Order of Possession and a monetary order.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on May 25, 2009 the Landlord served the Tenant with the Notice of Direct Request Proceeding by registered mail. The Landlord submitted a copy of a Canada Post Receipt, with a tracking number, which indicates that the Landlord mailed a package to the rental unit. The Canada Post website confirms that this package was mailed on May 25, 2009 and indicates that the package has not yet been picked up by the recipient.

The Landlord received the Direct Request Proceeding package on May 22, 2009 and initiated service within three days. Section 90 of the Residential Tenancy Act determines that a document served by mail is deemed to have been served on the fifth day after it is mailed, which in these circumstances is May 30, 2009.

Based on the written submissions of the Landlord, I find the Tenant has been served with the Dispute Resolution Direct Request Proceeding documents.

### Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to an Order of Possession for unpaid rent; to a monetary Order for unpaid rent; to retain the security deposit; and to recover the filing fee from the Tenant for the cost of the Application for Dispute Resolution, pursuant to sections 38, 55, 67, and 72 of the *Act*.

### Background and Evidence

I have reviewed the following evidence that was submitted by the Landlord:

- A copy of the Proof of Service of the Notice of Direct Proceeding for the Tenant.

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- A copy of a residential tenancy agreement for the rental unit, which is signed by the Tenant, which indicates that the tenancy began on April 01, 2009; that the Tenant was required to pay rent of \$850.00 on the first day of each month; and that he paid no security deposit.
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was signed on May 05, 2009, which states that the Tenant must vacate the rental unit by May 18, 2009 as they have failed to pay rent in the amount of \$950.00 that was due on May 01, 2009. The Notice states that the tenancy will end unless the Tenant pays the rent or submits an Application for Dispute Resolution seeking to set aside the Notice within five days of receiving the Notice.
- A copy of the Proof of Service of the 10 Day Notice to End Tenancy that indicates that an agent for the Landlord posted the Notice on the door of the rental unit on May 05, 2009 at 1430 hours, in the presence of another employee of the Landlord, who also signed the Proof of Service.

In the Application for Dispute Resolution the Landlord stated the 10 Day Notice to End Tenancy for Unpaid Rent was posted on the door of the rental unit on May 05, 2009.

In the Application for Dispute Resolution, the Landlord indicated that \$950.00 is due, although it does not provide details regarding how this debt was accrued.

## Analysis

Based on the evidence provided by the Landlord, I find that a 10 Day Notice to End Tenancy was posted on the front door of the rental unit on May 05, 2009.

I have no evidence to show that the Tenant filed an Application for Dispute Resolution seeking to set aside the Notice to End Tenancy. Pursuant to section 46(5) of the *Act*, I therefore find that the Tenant has accepted that the tenancy ended ten days after he is deemed to have received the Notice. I therefore find that the Landlord is entitled to an Order of Possession.

I find that the Landlord submitted insufficient details regarding the amount of rent that was due. I specifically note that the amount of rent that was allegedly due on May 01, 2009, exceeds the monthly rent for May by \$100.00, which is significantly less than the rent due in the previous month. Without some evidence regarding why the additional rent was due, I find that I am unable to determine the amount of rent that is due, although I accept that some rent is due. I find that I cannot award a monetary Order for unpaid rent without further information that establishes why this amount of rent is due. I



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therefore dismiss the Landlord's claim for compensation for unpaid rent, with leave to reapply on this specific issue.

## Conclusion

I find that the Landlord is entitled to an Order of Possession effective two days after service on the Tenant. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

I find that the Landlord has established a monetary claim, in the amount of \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution.

Based on these determinations I grant the Landlord a monetary Order for the amount of \$50.00. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

As there is no evidence that the Tenant paid a security deposit, I find that I am unable to consider the Landlord's request to keep any portion of the that deposit.

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 03, 2009.

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Dispute Resolution Officer