



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## DECISION

### Dispute Codes

OPR, MNR

### 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 January 12, 2011 the Landlord personally served the Tenant with the Notice of Direct Request Proceeding at the rental unit. Based on the written submissions of the Landlord, I find the Tenant has been duly 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 and to a monetary Order for unpaid rent, pursuant to sections 55 and 67 of the *Act*.

### Background and Evidence

I have reviewed the following evidence submitted by the Landlord:

- A copy of the Proof of Service of the Notice of Direct Proceeding for the Tenant
- A copy of a residential tenancy agreement that appears to be signed by the Tenant, which indicates that the tenancy began on September 09, 2010 and that the rent of \$750.00 is due on the first day of the month
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was signed by the Landlord on January 04, 2011 which declares that the Tenant must vacate the rental unit by January 14, 2011 unless the Tenant pays the rent within five days of receiving the Notice or submits an Application for Dispute Resolution seeking to set aside the Notice within five days of receiving the Notice. The Notice indicates that the Tenant owes rent, in the amount of \$750.00, that was due on January 01, 2011.

- A copy of Proof of Service of the 10 Day Notice to End Tenancy, in which the Landlord declared that she posted the Notice on the Tenant's door on January 04, 2011 at 10:40 a.m., in the presence of her husband, who also signed the Proof of Service.
- A receipt for \$375.00, dated January 13, 2011, which declares that \$375.00 is still outstanding and that the partial payment does not negate the eviction notice.

On the Application for Dispute Resolution, the Landlord indicates that the 10 Day Notice to End Tenancy for Unpaid Rent was posted on the door on January 04, 2011; that the Tenant paid rent of \$375.00 on January 13, 2011; and that rent of \$375.00 is still outstanding.

### Analysis

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that the Tenant entered into a tenancy agreement, in which the Tenant agreed to pay monthly rent of \$750.00 on the first day of each month.

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that the Tenant had not paid rent of \$375.00 that was due on September 01, 2010 by the time the Landlord filed this Application for Dispute Resolution. I have no evidence to show that the Tenant paid the outstanding rent since the Application for Dispute Resolution was filed and therefore I find that the Tenant owes rent in the amount of \$375.00.

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that a 10 Day Notice to End Tenancy was posted at the rental unit on January 04, 2011.

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 the Tenant is deemed to have received the Notice that was posted on January 04, 2011. A notice that is posted on January 04, 2011 is deemed received on January 07, 2011 and there the Notice to End Tenancy was effective on January 17, 2011. On this basis, I find that the Landlord is entitled to an Order of Possession.

### 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 \$375.00, for unpaid rent and I grant the Landlord a monetary Order in this amount. 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.

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 21, 2011.

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Residential Tenancy Branch