



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, MNSD, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an order of possession and a monetary order.

The hearing was conducted via teleconference and was attended by the landlord's agent. The tenant did not attend.

The landlord submitted a signed Proof of Service of this application and the notice of hearing documents that declares that on July 9, 2011 the landlord served the tenant with the these documents personally and that this service was witnessed by a third party.

Based on the written submissions of the landlord, I find that the tenant has been sufficiently served with the Dispute Resolution documents pursuant to the *Residential Tenancy Act (Act)*.

### 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; for all or part of 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, 46, 55, 67, and 72 of the *Act*.

### Background and Evidence

The landlord submitted the following documentary evidence:

- A copy of a residential tenancy agreement which was signed by the parties on December 6, 1999 for a month to month tenancy beginning on January 1, 2000 for a current monthly rent of \$1,164.00 due on the 1<sup>st</sup> of each month and a security deposit of \$350.00 was paid on December 6, 1999;

- A copy of the most recent Notice of Rent Increase confirming the rent was increased effective January 1, 2011 to the current amount of \$1,164.00; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on February 8, 2011 with an effective vacancy date of February 18, 2011 due to \$8,632.00 in unpaid rent.

Documentary evidence filed by the landlord indicates the tenant failed to pay the full rent owed for the months of July, August, September, October, November, December 2010 and January, February, March, April, May, June, July, and August 2011 and that the tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent personally on February 8, 2011 at 4:20 p.m. personally and that the tenant signed confirmation of this receipt.

The Notice states the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant did not pay the rent in full or apply to dispute the Notice to End Tenancy within five days.

### Analysis

I have reviewed all documentary evidence and accept that the tenant has been served with notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenant on February 8, 2011 and the effective date of the notice was February 18, 2011. I accept the evidence before me that the tenant failed to pay the rent owed in full within the 5 days granted under Section 46(4) of the *Act*.

Based on the foregoing, I find the tenant is conclusively presumed under section (46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the Notice.

### Conclusion

I find the landlord is entitled to an order of possession effective **two days after service on the tenant**. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

I find the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$15,216.00** comprised of \$15,116.00 rent owed and the \$100.00 fee paid by the landlord for this application.

I order the landlord may deduct the security deposit and interest held in the amount of \$381.34 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$14,834.66**. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be 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: August 05, 2011.

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Residential Tenancy Branch