



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR

### Introduction

This matter was conducted by way of Direct Request Proceeding, pursuant to section 55 (4) of the *Residential Tenancy Act*. The landlord has applied for an Order of Possession and a monetary order for unpaid rent.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding, which declares that on October 7, 2011 the landlord served the tenant with notice of the direct request proceeding by registered mail. Section 90 of the *Act* states that a document is deemed to have been served five days after mailing. Based on the landlord's written submissions, I find that the tenant has been served with the Direct Request Proceeding documents, which are deemed to have been served on October 12, 2011.

### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent?  
Is the landlord entitled to a monetary order for unpaid rent?

### Background and Evidence

The landlord submitted the following evidentiary material:

- a copy of a residential tenancy agreement signed by the tenant and the landlord on April 6, 2011, indicating a monthly rent of \$810.00 payable in advance on the last day of the previous month;

- a copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, issued on September 6, 2011, with an effective vacancy date of September 16, 2011, for failure to pay rent in the amount of \$810.00 that was due on September 1, 2011;
- a copy of the Proof of Service of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, showing that the tenant was personally served with the notice on September 6, 2011; and
- a copy of the Landlord's Application for Dispute resolution, filed on October 6, 2011. The Application also states that after service of the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, the tenant paid \$600.00 on September 21, 2011.

### Analysis

I have reviewed all documentary evidence and I accept that the tenant has been served with the notice to end tenancy as declared by the landlord, which was served personally on September 6, 2011.

I also accept the evidence before me that the tenant has failed to pay the rent owed within the five days provided under section 46 (4) of the *Residential Tenancy Act*. The tenant has not made an application to dispute the notice to end tenancy, and therefore, I find that the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice.

I also have the evidence of the landlord that rent was collected after the effective date of the notice to end tenancy. I find that the landlord was entitled to collect the rent and because the tenant paid an amount after the effective date of the notice, the landlord has not reinstated the tenancy and the landlord is entitled to an Order of Possession and a monetary order in the amount of \$210.00.

### Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favour of the landlord on 2 days notice to the tenant. The tenant must be served with the Order of Possession. If the tenant is served with the order and fails to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

I further grant a monetary order in favour of the landlord pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$210.00. This order may be filed in the Provincial Court of British Columbia, Small Claims division 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: October 14, 2011.

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Residential Tenancy Branch