



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes:**

**OPR, MNR, FF**

### **Introduction**

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has requested an Order of Possession for Unpaid Rent, a monetary Order for unpaid rent and to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

The agent for the landlord provided affirmed testimony that on May 28, 2012, copies of the Application for Dispute Resolution and Notice of Hearing were sent to the tenant via registered mail at the address noted on the Application. The landlord checked the Canada Post web site and established that the tenant received the package, by signing accepting the mail, on June 4, 2012.

These documents are deemed to have been served in accordance with section 89 of the Act; however the tenant did not appear at the hearing.

### **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?

Is the landlord entitled to filing fee costs?

### **Background and Evidence**

The tenancy commenced on October 1, 2012; subsidized rent is currently \$510.00 per month, due on the first day of each month.

The landlord stated that on May 8, 2012, at 1:35 p.m., he posted a ten (10) day Notice to End Tenancy for non-payment of rent, to the door of the tenant's unit. The Notice had an effective date of May 21, 2012.

The Notice indicated that the Notice would be automatically cancelled if the landlord received \$630.00 within five days after the tenant was assumed to have received the Notice. The Notice also indicated that the tenant was presumed to have accepted that the tenancy was ending and that the tenant must move out of the rental by the date set out in the Notice unless the tenant filed an Application for Dispute Resolution within five days.

The tenant failed to pay \$260.00 of April rent owed and did not pay \$260.00 of May rent owed. The landlord could not account for the balance of \$110.00 that was indicated on the Notice.

On June 12, 2012, the tenant paid all rent arrears owed.

On June 8, 2012, the tenant had been sent a letter warning her that any rent payments made would be for use and occupancy only.

The landlord provided copies of multiple 10 Day Notices that have been issued to the tenant since the tenancy commenced.

### Analysis

Section 90 of the Act stipulates that a document that is posted on a door is deemed to be received on the third day after it is posted. I therefore find that the tenant received the Notice to End Tenancy on May 11, 2012.

In the absence of evidence to the contrary, I find that the tenant was served with a Notice to End Tenancy that required the tenant to vacate the rental unit on May 21, 2012, pursuant to section 46 of the Act.

Section 46 of the Act stipulates that a tenant has five (5) days from the date of receiving the Notice to End Tenancy to either pay the outstanding rent or to file an Application for Dispute Resolution to dispute the Notice. In the circumstances before me I have no evidence that the tenant exercised either of these rights; therefore, pursuant to section 46(5) of the Act, I find that the tenant accepted that the tenancy ended on the effective date of the Notice; May 21, 2012.

The tenant has paid the rent owed, but did not do so within 5 days of May 11, 2012. She was given notice that any rent payments made would be for use and occupancy only. On this basis I will grant the landlord an Order of Possession that is effective 2 days after the Order is served to the tenant.

The tenant currently does not owe any rent to the landlord.

I find that the landlord's application has merit and that the landlord is entitled to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

Conclusion

The landlord has been granted an Order of Possession that is effective 2 days after service to 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 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 in the sum 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.

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 18, 2012.

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Residential Tenancy Branch