



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, MNDC, FF

### Introduction

This hearing dealt with the landlord's application for dispute resolution under the Residential Tenancy Act (the "Act") for an order of possession for the rental unit due to unpaid rent, a monetary order for unpaid rent and money owed or compensation for damage or loss, and to recover the filing fee.

The tenant did not appear at the telephone conference call hearing. The landlord's agent (hereinafter referred to as "landlord") appeared and gave affirmed testimony.

The landlord gave evidence that he served the tenant with the Application for Dispute Resolution and Notice of Hearing (the Hearing Package) by leaving it with the tenant on December 24, 2012. The landlord said that the tenant signed the Notice of Dispute Resolution, indicating service of the Hearing Package.

I find the tenant was served notice of this hearing in a manner complying with section 89 of the Residential Tenancy Act (the "Act") and the hearing proceeded in the tenant's absence.

The landlord was provided the opportunity to present his evidence orally and to refer to documentary evidence timely submitted prior to the hearing.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure; however, I refer to only the relevant evidence regarding the facts and issues in this decision.

*Preliminary Issue*-The landlord failed to submit a copy of the 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice") prior to the hearing as well as the Notice of Dispute Resolution Hearing which was signed by the tenant.

I allowed the landlord to send by facsimile these documents after the hearing, which he so did within 10 minutes.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for the rental unit due to unpaid rent, a monetary order and to recover the filing fee?

Background and Evidence

The landlord said that the previous agent for the landlord who arranged this tenancy failed to provide documents, such as a tenancy agreement, to the present landlord's agent; however, the landlord said that this tenancy began in 2001, monthly rent is \$1250.00 and there is no information concerning a security deposit.

The landlord gave evidence that on December 7, 2012, he served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice"), by leaving it with the tenant, listing unpaid rent of \$9600.00 as of December 1, 2012. The effective vacancy date listed on the Notice was December 18, 2012.

The Notice informed the tenant that the Notice would be cancelled if the rent was paid within five days. The Notice also explained the tenant had five days to dispute the Notice.

The landlord stated that the tenant continually promised to pay rent, but has not done so. The landlord said that the tenant has not made a payment of rent since this past summer, except for an amount of \$400.00, and as of the date of the hearing, the tenant owed \$10,850.00 in unpaid rent.

I have no evidence before me that the tenant applied to dispute the Notice.

Analysis

Based on the relevant oral and written evidence and on a balance of probabilities, I find as follows:

I find the tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent, did not pay the outstanding rent or apply to dispute the Notice within five days of service and is therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

I therefore find that the landlord is entitled to an order of possession for the rental unit effective two days after service of the order upon the tenant.

I also find that the landlord has established a total monetary claim of \$10,950.00 comprised of outstanding rent of \$10,850.00 through January, 2013, and the \$100.00 filing fee paid by the landlord for this application.

### Conclusion

I grant the landlord a final, legally binding order of possession, which is enclosed with the landlord's Decision. Should the tenant fail to vacate the rental unit pursuant to the terms of the order, this order may be filed in the Supreme Court of British Columbia for enforcement as an order of that Court.

I grant the landlord a final, legally binding monetary order pursuant to section 67 of the Act for the balance due, in the amount of \$10,950.00, which I have enclosed with the landlord's Decision.

Should the tenant fail to pay the landlord this amount without delay, the order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement 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* and is being mailed to both the applicant and the respondent.

Dated: January 16, 2013

