



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR and MNR

### Introduction

This hearing was conducted as a Direct Request Proceeding, pursuant to section 55(4) of the *Residential Tenancy Act* (the "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 the landlord served the tenants with the Notice of Direct Request Proceeding in person on January 9, 2013.

Based on the written submissions of the landlord, I find that the tenants have been served with the 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 a Monetary Order for the unpaid rent.

### Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Proceeding for the tenants;
- A copy of a fixed term residential tenancy agreement to September 30, 2013 which was signed by the parties on September 12, 2012 at a monthly rent of \$1,250 and stating that security and pet damage deposits of \$625 each were paid on September 12, 2012.

- A copy of a 10 Day Notice to End Tenancy for unpaid rent which was served in person on January 2, 2013.

Documentary evidence filed by the landlord indicates the tenants had failed to pay the \$1,250 rent due on January 1, 2013.

The Notice to End Tenancy states that the tenants had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenants did pay the rent and did not apply to dispute the Notice to End Tenancy within five days from the date of service.

The landlord had requested a monetary claim in this application for the unpaid rent of \$1,250 and an Order of Possession.

### Analysis

I have reviewed all documentary evidence and accept that the tenants were served with Notice to End Tenancy as declared by the landlord.

I accept the evidence before me that the tenants failed to pay the rent owed in full within the five days granted under section 46(4) of the *Act*.

Based on the foregoing, I find that the tenants are conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the Notice which was January 12, 2013, taking into account documents service in person are deemed to have been received on service.

Therefore, I find that the landlord is entitled to an Order of Possession based on the Notice to End Tenancy of January 2, 2013.

I further find that the landlord is entitled to a Monetary Order for the unpaid rent.

### Conclusion

The landlord's copy of this Decision is accompanied by an Order of Possession effective **two days after service** on the tenants. The Order may be filed in the Supreme Court and enforced as an Order of that Court.

The landlord is also provided with a Monetary Order for \$1,250 for the unpaid rent for January 2013 for service on the tenants. This Order is enforceable through the Provincial Court of British Columbia.

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 15, 2013

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Residential Tenancy Branch

