



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Belmonte Apartments  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes: OPR, MNR

This matter proceeded by way of Direct Request Proceeding, pursuant to section 55(4) of the Act, and dealt with an Application for Dispute Resolution by the landlord 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 February 8, 2013, the landlord personally served the tenant with the Notice of Direct Request Proceeding.

Section 90 of the Act provides that a document served in this manner is deemed to have been received on that same date. Based on the written submissions of the landlord, I find that the tenant has been duly served with the Direct Request Proceeding documents.

## Issues to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order for unpaid rent?

## Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Request Proceeding;
- A copy of the residential tenancy agreement which was signed by the parties on June 14, 2012, indicating that the tenant is obligated to pay \$690.00 in rent in advance on the first day of each month;
- A copy of two 10 Day Notices to End Tenancy for Unpaid Rent, both issued on February 2, 2013, with a stated effective vacancy date of February 12, 2013; one notice documents that \$90.00 remained unpaid when due on January 1, 2013, and the other documents that \$690.00 remained unpaid when due on February 1, 2013 (total overdue: \$780.00), and

- A copy of the Proof of Service of the Notice to End Tenancy showing that on February 2, 2013 the landlord personally served both notices to end tenancy on the tenant.

Section 90 of the Act provides that as the notices to end tenancy were served in-person on February 2, 2013, the tenant is deemed to have received them on that same date.

The Notices restate section 46(4) of the Act which provides that the tenant had 5 days to pay the rent in full or apply for Dispute Resolution. The tenant did not apply to dispute the Notices to End Tenancy within 5 days from the date of service and the landlord alleged that the tenant did not pay the rental arrears.

### Analysis

I find that the tenant received the notices to end tenancy on February 2, 2012. I accept the landlord's evidence and I find that the tenant neither paid the rental arrears, nor applied to dispute the notices. The tenant is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notices. I grant the landlord an **order of possession** which must be served on the tenant. Should the tenant fail to comply, the order may be filed for enforcement in the Supreme Court.

I accept the evidence before me that the tenant has failed to pay a combined total of \$780.00 in rent for January and February 2013. I find that the landlord is entitled to recover the rental arrears and I grant the landlord a **monetary order** for **\$780.00**.

### Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **two (2) days** after service on the tenant. This order must be served on the tenant. Should the tenant fail 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.

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **\$780.00**. This order may be served on the tenant, filed in the 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: February 20, 2013

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Residential Tenancy Branch

