



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Wall Financial Corporation  
and [tenant name suppressed to protect privacy]

## **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 "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 on January 22, 2013 at 4:50 p.m. the landlord personally served the tenant with the Notice of Direct Request Proceeding; at the rental unit address. Section 90 of the Act determines that a document is deemed to have been served on the day of personal delivery.

Based on the written submissions of the landlord, I find that the tenant has been served with the Direct Request Proceeding documents.

### Issue(s) to be Decided

Is the landlord entitled to an Order of possession?

Is the landlord entitled to monetary compensation 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 Proceeding for the tenant;
- A copy of a residential tenancy agreement which was signed by the parties on October 25, 2011, indicating a monthly rent of \$725.00 due on the 1<sup>st</sup> day of the month;
- A tenant ledger which shows payments made in the sum of \$55.00 and \$145.00 in January 2013; the balance owed effective January 1, 2013 was \$980.00 which included past late fees and parking; and

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on January 2, 2013, with a stated effective vacancy date of January 15, 2013, for \$725.00 in unpaid January 2013 rent.

Documentary evidence filed by the landlord indicates that the tenant has failed to pay rent owed and was served the 10 Day Notice to End Tenancy for Unpaid Rent by posting to the tenant's door on January 2, 2013 at 3:06 p.m., with an assistant manager present as a witness.

The Notice states that the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant did not apply to dispute the Notice to End Tenancy within five days from the date of service and has not paid January rent in the sum of \$610.00.

### Analysis

I have reviewed all documentary evidence and accept that the tenant has been served with notice to end tenancy as declared by the landlord.

The Notice is deemed to have been received by the tenant on January 5, 2013.

I accept the evidence before me that the tenant has failed to pay the rent owed in full within the 5 days granted under section 46 (4) of the Act. There was no evidence before me that the tenant applied to dispute the Notice.

Based on the foregoing, I find that the tenant is conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice; January 15, 2013.

In relation to the monetary claim I find that the landlord is entitled to compensation for unpaid January 2013 rent in the sum of \$725.00 less the 2 payments made in January totaling \$200.00. This will satisfy rent owed for January 2013; the balance of the claim is dismissed.

The landlord is at liberty to submit a claim for any past or future losses that may be owed. The Direct Request proceeding process considers only unpaid rent; the ledger supplied included costs that were beyond unpaid rent; therefore I considered only that which was owed and paid in January 2013.

Therefore, I find that the landlord is entitled to an Order of possession and a monetary Order for the balance of unpaid January 2013 rent in the sum of \$525.00.

Based on these determinations I grant the landlord a monetary Order in the sum of \$525.00. 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.

The landlord has been granted an Order of possession that is effective **two days after it is served upon 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.

Conclusion

The landlord is entitled to an Order of possession and a monetary order in the sum of \$525.00 for unpaid January 2013 rent. The balance of the claim is dismissed.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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 21, 2013

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Residential Tenancy Branch

