



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

### Dispute Codes:

OPR, CNR, MNR, FF

### Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord has made application for an Order of Possession for Unpaid Rent, an Order of Possession for Cause, 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 Landlord stated that on January 18, 2013 she personally served the Tenant with the original Application for Dispute Resolution, the Notice of Hearing, and documents the Landlord wished to rely upon as evidence. The Landlord submitted a document which appears to be signed by the Tenant, which acknowledges service of the Application for Dispute Resolution. In the absence of evidence to the contrary, I find that these documents have been served to the Tenant.

The Landlord stated that on February 04, 2013 she gave the amended Application for Dispute Resolution to someone in the rental unit, who she does not believe resides in the rental unit. The amended Application for Dispute Resolution included a claim for unpaid rent for February of 2013. The *Residential Tenancy Act (Act)* does not permit a landlord to serve these documents in this manner and, in the absence of evidence that shows the Tenant received the documents, I cannot conclude that the Tenant was properly served with the amended Application for Dispute Resolution.

Regardless of whether or not the amended Application for Dispute Resolution was properly served on the Tenant, I find that the Tenant knew, or should have known, that the Landlord would be seeking all of the outstanding rent that is currently due, including rent from February of 2013.

### Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to an Order of Possession; to a monetary Order for unpaid rent; and to recover the fee for filing the Application for Dispute Resolution, pursuant to sections 55, 67, and 72 of the *Act*.

### Background and Evidence

The Landlord stated that the Tenant moved into the rental unit on April 27, 2012; that the Tenant is required to pay monthly rent of \$806.00 by the first day of each month; that the Tenant paid \$400.00 in rent on January 02, 2013; that the Tenant still owes \$406.00 in rent for January of 2013; that the Tenant has not paid rent for February of 2013; and that the Tenant is still residing in the rental unit.

The Landlord stated that on January 10, 2013 she personally served the Tenant with a Ten Day Notice to End Tenancy for Unpaid Rent, which had a declared effective date of February 20, 2013. The Notice declared that the Tenant had failed to pay \$806.00 in rent that was due on January 01, 2013.

### Analysis

Based on the undisputed evidence, I find that the Tenant entered into a tenancy agreement with the Landlord that requires the Tenant to pay monthly rent of \$806.00 by the first day of each month; that the Tenant has not paid \$406.00 of the rent that was due on January 01, 2013; and that she has not paid the rent that was due on February 01, 2013. As she is required to pay rent when it is due pursuant to section 26(1) of the *Act*, I find that the Tenant must pay \$1,212.00 in outstanding rent to the Landlord.

If rent is not paid when it is due, a tenancy may be ended pursuant to section 46 of the *Act*. Based on the undisputed evidence, I find that on January 10, 2013 the Tenant was personally served with a Notice to End Tenancy that directed the Tenant to vacate the rental unit by February 20, 2013, pursuant to section 46 of the *Act*.

Section 46 of the *Act* stipulates that a tenant is conclusively presumed to have accepted the tenancy ends on the effective date of the Notice to End Tenancy if the tenant does not either pay the outstanding rent or file an Application for Dispute Resolution to dispute the Notice within five days of receiving the Notice to End Tenancy. I have no evidence that the Tenant exercised either of these rights and, pursuant to section 46(5) of the *Act*, I therefore find that the Tenant accepted that the tenancy will end on February 20, 2013. On this basis I find that the Landlord is entitled to an Order of Possession that is effective on the declared effective date of the Notice, which is February 20, 2013.

As I have determined that the Landlord is entitled to an Order of Possession pursuant to section 46 of the *Act*, I find that I do not also need to consider the Landlord's application for an Order of Possession pursuant to section 47 of the *Act*.

I find that the Landlord's application has merit and that the Landlord is entitled to recover the fee for filing this Application for Dispute Resolution.

Conclusion

I hereby grant the Landlord an Order of Possession that is effective at 1:00 p.m. on February 20, 2013. 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 \$1,262.00, which is comprised of \$1,212.00 in unpaid rent and \$50.00 in compensation 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 for the amount of \$1,262.00. 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: February 13, 2013

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Residential Tenancy Branch

