



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding E. ALSILMI AND GROUP LTD  
and [tenant name suppressed to protect privacy]

## DECISION

Dispute Codes      OPR MNR

### Preliminary Issues

The tenancy agreement submitted into evidence lists two tenants (D.Y. & A.F.) only one of whom is listed as a respondent to this dispute. A letter was submitted from the Landlord indicating the second respondent (I.K.) moved into the rental unit as of March 1, 2012. Tenant A.F. vacated the property as of October 30, 2011. The new occupant, I.K. was not added to the tenancy agreement and did not sign a separate tenancy agreement.

An occupant is defined in the *Residential Tenancy Policy Guideline Manual*, section 13 as follows:

*where a tenant allows a person who is not a tenant to move into the premises and share the rent, the new occupant has no rights or obligations under the original tenancy agreement, unless all parties (owner/agent, tenant, occupant) agree to enter into a tenancy agreement to include the new occupant as a tenant*

Based upon the aforementioned, I find I.K., respondent to this dispute, does not meet the definition of a tenant; rather they are an occupant. Thus, I decline to rule on the matter brought against I.K. as it does not meet the requirements of the direct request process. I did however proceed against the Tenant, D.Y.

### Introduction

This hearing 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 for unpaid rent and a Monetary Order for unpaid rent.

The Landlord submitted signed Proof of Service documents for the Notice of Direct Request Proceeding which declares that on March 22, 2013, at 9:00 p.m. the Landlord personally served the Tenant with the Notice of Direct Request Proceeding. The Landlord also served the Tenant by registered mail and provided Canada Post Tracking

receipts in their evidence. Based on the written submissions of the Landlord, I find that the Tenant has been sufficiently served with the Dispute Resolution Direct Request Proceeding documents.

### Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession and a Monetary Order pursuant to section 55 of the *Residential Tenancy Act*?

### Background and Evidence

I have carefully reviewed the following evidentiary material submitted by the Landlord:

- 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 for a fixed term tenancy that began on July 1, 2008 and switched to a month to month tenancy after June 30, 2009, for the monthly rent of \$770.00 which is payable on the first of each month; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, March 13, 2013, with an effective vacancy date of March 18, 2013, due to \$750.00 in unpaid rent.

Documentary evidence filed by the Landlord indicates that the Tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent on March 13, 2013, at 7:00 p.m. when it was personally served to the Occupant I.K., in the presence of a witness.

### Analysis

**Order of Possession** - 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 was received by an adult residing with the Tenant on March 13, 2013, and the effective date of the notice is March 23, 2013, pursuant to section 90 of the *Act*. 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*.

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 and I hereby grant the Landlord an Order of Possession.

**Monetary Order** – The evidence supports that the Tenant has failed to pay rent in accordance with section 26 of the Act which stipulates that a tenant must pay rent when it is due under the tenancy agreement. The Tenant has a balance owing of \$750.00 that was due March 1, 2013. As per the aforementioned I find the Landlord has met the burden of proof and I award him a Monetary Order for **\$750.00**.

Conclusion

I HEREBY FIND that the Landlord is entitled to an Order of Possession effective **two days after service on the Tenant**. This Order is legally binding and must be served upon the Tenant.

The Landlord has been awarded a Monetary Order in the amount of **\$750.00**. This Order is legally binding and must be served upon the Tenant. In the event that the Tenant does not comply with this Order it may be 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: March 26, 2013

---

Residential Tenancy Branch

