



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPR

### Introduction

This hearing was convened as a result of the landlord's application for dispute resolution seeking remedy under the *Residential Tenancy Act* (the "Act"). The landlord applied for an order of possession for unpaid rent or utilities.

An agent for the landlord appeared at the teleconference hearing and gave affirmed testimony. During the hearing the agent was given the opportunity to provide her evidence orally. A summary of the testimony is provided below and includes only that which is relevant to the hearing.

As the tenant did not attend the hearing, service of the Notice of a Dispute Resolution Hearing (the "Notice") was considered. The agent testified that the Notice was served on the tenant via personal service to the tenant at the rental building on March 20, 2013. The agent stated that the tenant was served with evidence at the same time on March 20, 2013. I find the tenant was sufficiently served in accordance with the *Act*.

### Issue to be Decided

- Is the landlord entitled to an order of possession for unpaid rent or utilities?

### Background and Evidence

The landlord submitted a copy of the tenancy agreement. A fixed term tenancy with no specific dates provided began on May 25, 2009 which effectively made the tenancy agreement a month to month tenancy agreement. Monthly rent in the amount of \$375.00 was due on the first of the month. The tenant received a rent subsidy throughout the tenancy which resulted in the tenant's portion of the \$375.00 rent being \$138.01, however was increased throughout the tenancy to a tenant's portion of \$150.26 and the current tenant's portion of \$162.53.

The agent stated that the tenant has failed to pay his portion of the monthly rent since the start of the tenancy and refuses to work with the landlord after many attempts to have the tenant pay his portion.

The landlord submitted a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "10 Day Notice") dated January 28, 2011 and was on an old form no longer used by the Residential Tenancy Branch. According to the 10 Day Notice, the tenant was advised that he owed \$2,440.00 in rent due on January 28, 2011. The agent acknowledged writing the wrong year on the 10 Day Notice, 2011 versus the correct year, 2013.

### Analysis

Based on the documentary evidence and the oral testimony provided during the hearing, and on the balance of probabilities, I find the following.

**I find** that the 10 Day Notice served on the tenant by the landlord is **invalid** as it was dated January 28, 2011 and the amount of unpaid rent is indicated due as of January 28, 2011, versus the current year, 2013. Furthermore, the agent used an old form that is not longer used by the Residential Tenancy Branch. **I dismiss** the landlord's application as a result of the invalid 10 Day Notice.

**I order** that the tenancy continue until ended in accordance with the *Act*.

### Conclusion

I dismiss the landlord's application due to the invalid 10 Day Notice.

I order that the tenancy continue until ended in accordance with the *Act*.

The landlord is reminded to use the current forms available on the Residential Tenancy Branch website; [www.rto.gov.bc.ca](http://www.rto.gov.bc.ca).

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: April 17, 2013

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Residential Tenancy Branch

