



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Vancouver Native Housing Society  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR

### Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking an order of possession.

The hearing was conducted via teleconference and was attended by 3 agents for the landlord and the tenant.

### Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for unpaid rent, pursuant to Sections 46 and 55 of the *Act*.

### Background and Evidence

The landlord submitted the following documentary evidence:

- A copy of a residential tenancy agreement which was signed by the parties on September 8, 1995 for a month to month tenancy beginning on September 9, 1995 for the current subsidized rent of \$308.00 due on the 1<sup>st</sup> of each month and a security deposit of \$335.00 was paid; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on March 7, 2013 with an effective vacancy date of March 22, 2013 due to \$962.00 in unpaid rent. The Notice states the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant did not pay the rent in full or apply to dispute the Notice to End Tenancy within five days.

The landlord testified the tenant failed to pay the full rent owed for the months of January, February, March, and April and that the tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent by registered mail on March 7, 2013. The landlord confirms the registered mail was returned to the landlord as unclaimed.

The tenant testified that she could not pick up the registered mail because she did not have sufficient identification to pick up her registered mail. As a result, she states the

first time she was aware the landlord wanted to end the tenancy was when she received the letter from the landlord dated March 18, 2013.

Submitted into evidence by the landlord the letter states:

On March 7<sup>th</sup>, 2013 we sent you a 10-day notice to end tenancy for non-payment of rent in the amount of \$962.00 owing for January, February and March 2013. The notice gave you until March 17<sup>th</sup> to pay this rent and if it remained unpaid on that date you should be required to vacate your unit on March 22, 2013.

This letter is to advise you that we have not received payment of the arrears owing as of this date and you will be required to move out of the unit on March 22, 2012. Enclosed is a move-out check list to assist you to meet the expectations of the move-out inspection which will be scheduled for March 22<sup>nd</sup> at 1:00 p.m.

The landlord also submitted a copy of an email from the property manager to another of the landlord's agents dated March 28, 2013 confirming the delivery of the landlord's evidence package, that included a copy of the 10 Day Notice, to the tenant on March 28, 2013 at 8:04 a.m., and that this service was witnessed by a third party.

The tenant took no action in response to any of the communication or evidence package that she received from the landlord. The tenant submits that she lost her job in January and has not been able to establish an Employment Insurance claim because her employer has not provided her with a copy of her record of employment.

The tenant also submits that she has not applied for Income Assistance because she does not have any identification but that she is waiting for a birth certificate that her social worker has applied for her. The tenant has confirmed at this time she has no sources of income.

The tenant testified that she lost her job because of the landlord's actions. She states that when the landlord did their yearly inspection she suffered from so much anxiety that she missed work for 3 or 4 days and after she did her employer fired her. The tenant provided no documentary evidence to support these claims.

### Analysis

I have reviewed all the evidence and testimony and while I accept the tenant did not receive the 10 Day Notice when it was served by the landlord on March 7, 2013. However, because the landlord followed up with the letter of March 18, 2013 I am satisfied the tenant was aware the landlord was seeking to end the tenancy and yet the tenant did nothing – not even contact the landlord to discuss the ending of the tenancy or to tell them that she had not received the Notice.

I also note that the tenant did not contact the landlord or submit an Application for Dispute Resolution to dispute the Notice when she received the landlord's Notice of Hearing and evidence package, which included a copy of the 10 Day Notice to End Tenancy for Unpaid Rent on March 28, 2013.

I find a reasonable response from the tenant would have been to contact the landlord or the Residential Tenancy Branch (RTB) when she received a letter stating that she must move out of the rental unit within a day or two of receiving the letter. I also find a reasonable response from the tenant when she received the landlord's evidence package would have been to either pay the rent identified in the 10 Day Notice or to contact the RTB and/or file an application to dispute the notice.

Despite the tenant not receiving the 10 Day Notice when it was served on the tenant by registered mail I am satisfied that the tenant received 10 Day Notice to End Tenancy at the very latest by March 28, 2013. As a result I amend the effective date of the notice is to April 7, 2013, pursuant to Section 53 of the *Act*. I accept the evidence before me that the tenant 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 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.

### Conclusion

I find the landlord is entitled to an order of possession effective **two days after service on the tenant**. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be 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: April 23, 2013

---

Residential Tenancy Branch