



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Devon Properties Ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes: OPR

This matter 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.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on May 22, 2013, the landlord served the tenant with the Notice of Direct Request Proceeding by way of Registered Mail.

Section 90 of the Act provides that a document served in this manner is deemed to have been received on the 5<sup>th</sup> day after service. Based on the written submissions of the landlord, I find that the tenant has been duly served with the Direct Request Proceeding documents.

### Issues to be Decided

Is the landlord entitled to an order of possession?

### Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Request Proceeding;
- A copy of the residential tenancy agreement which was signed by the parties on February 20, 2006, indicating that the tenant is obligated to pay \$605.00 in rent and \$10.00 for parking, in advance on the first day of each month;
- A copy of the tenant ledger which documents that monthly rent is now currently \$737.00 and parking is \$15.00;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent issued on May 6, 2013, with a stated effective vacancy date of May 19, 2013, for \$737.00 in unpaid rent effective May 1, 2013, and

- A copy of the Proof of Service of the Notice to End Tenancy showing that the landlord served the notice to end tenancy on the tenant by way of posting on the tenant's door on May 6, 2013.

Section 90 of the Act provides that as the notice to end tenancy was served by way of posting on the tenant's door on May 6, 2013, the tenant is deemed to have received the notice 3 days later on May 9, 2013.

The Notice restates section 46(4) of the Act which provides that the tenant had 5 days to pay the rent in full or apply for Dispute Resolution. The tenant did not apply to dispute the Notice to End Tenancy within 5 days from the date of service and the landlord alleged that the tenant did not pay the rental arrears.

#### Analysis

I find that the tenant received the notice to end tenancy on May 9, 2013. I accept the landlord's evidence and I find that the tenant neither paid the rental arrears, nor applied to dispute the notice. The tenant is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice. I grant the landlord an **order of possession** which must be served on the tenant. Should the tenant fail to comply, the order may be filed for enforcement in the Supreme Court.

#### Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **two (2) days** after service on the tenant. This order must be served on the tenant. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia 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: May 29, 2013

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Residential Tenancy Branch