



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: OPR

### **Introduction:**

This hearing dealt with an application by the landlord pursuant to the Residential Tenancy Act for orders as follows:

b) An Order of Possession pursuant to Sections 46 and 55.

### **SERVICE:**

The tenant did not attend. The landlord provided evidence that the tenant was served personally with the Notice to end Tenancy on April 3, 2013 and with the Application for Dispute Resolution by registered mail. It was verified online that the registered mail was available to the tenant from April 11, 2013 and was returned to the sender after it was unclaimed despite several notice being left. The landlord said he also left one for the tenant at his door and he knows he received it. I find the tenant is deemed to be served for the purposes of this hearing.

### **Issue(s) to be Decided:**

The tenant was issued a Notice to End Tenancy dated April 3, 2013. Is the landlord now entitled to an Order of Possession?

### **Background and Evidence:**

The tenant did not attend although deemed to be served with the Application/Notice of Hearing. The landlord was given opportunity to be heard, to present evidence and to make submissions. The landlord provided documentary evidence that the tenant had signed a residential tenancy agreement on February 8, 2013 to rent the unit for \$3295 a month and paid a security deposit of \$1600.

The landlord said the tenant had not paid rent for April within the 5 days after the Notice was served. He said the rent for April was eventually paid and a receipt issued for use and occupancy only. The landlord did not request a monetary order or filing fee in the application. The tenant has agreed to move out as of May 15, 2013 and the landlord requests an Order of Possession to be enforced should the tenant not vacate. The

landlord was advised to deal with the security deposit according to the provisions of section 38 of the Act.

On the basis of the solemnly sworn evidence presented at the hearing, a decision has been reached.

### **Analysis**

#### **Order of Possession**

I find that the landlord is entitled to an Order of Possession. The Tenant has not made application pursuant to Section 46 to set aside the Notice to End a Residential Tenancy and the time to do so has expired. Although he did pay rent for April, 2013, I find he did not pay it within the requisite 5 days after service of the Notice to End Tenancy. In these situations, the Residential Tenancy Act provides that the tenant has been deemed to have accepted the end of the tenancy on the date set out in the Notice. An Order of Possession is issued effective two days after service.

### **Conclusion:**

An Order of Possession is issued to the landlord to be effective two days after service. No monetary order or filing fee was requested on the Application so none is awarded.

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 10, 2013

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Residential Tenancy Branch