



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: OPR, MNR & FF

### **Introduction**

A hearing was conducted by conference call in the presence of a representative of the applicant and in the absence of the respondent although duly served. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

I find that the 10 day Notice to End Tenancy was sufficiently served on the Tenant by posting on May 6, 2013. The Residential Tenancy Act permits a party to serve another by mailing, by registered mail to where the other party resides. The landlord testified that she mailed a copy of the Application for Dispute Resolution/Notice of Hearing by registered mail to where the Tenant resides on May 22, 2013. A search of the Canada Post tracking service indicates that a Notification card was left but that the tenant failed to pick up the package. The Supreme Court of British Columbia has held that a party cannot avoid service by refusing to pick up their registered mail. I determined there was sufficient service of the Application for Dispute Resolution/Notice of Hearing. With respect to each of the applicant's claims I find as follows:

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

The issues to be decided are as follows:

- a. Whether the landlord is entitled to an Order for Possession?
- b. Whether the landlord is entitled to A Monetary Order and if so how much?
- c. Whether the landlord is entitled to recover the cost of the filing fee?

### **Background and Evidence:**

The tenancy began on October 1, 2012 when the parties entered into a one year fixed term tenancy agreement that was to end on September 30, 2013. The rent is \$885 per month payable on the first day of each month. The tenant paid a security deposit of \$442.50 at the start of the tenancy.

The tenant(s) failed to pay the rent for the months of May 2013 and June and the sum of \$1770 remains owing. The tenancy agreement also includes a provisions that the landlord is entitled to \$25 for a NSF charge. The tenant remains in the rental unit.

Analysis - Order of Possession:

I determined the landlord was entitled to an Order for Possession. There is outstanding rent. The Tenant(s) have not made an application to set aside the Notice to End Tenancy and the time to do so has expired. In such situations the Residential Tenancy Act provides the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and must vacate the rental unit by that date.

**Accordingly, I granted the landlord an Order for Possession on 2 days notice.**

The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court of British Columbia for enforcement.

Analysis - Monetary Order and Cost of Filing fee

I determined the tenant has failed to pay the rent for the month(s) of May 2013 and June 2013 and the sum of \$1770 remains outstanding. The tenancy agreement also provided that the tenant would pay the landlord the sum of \$25 for a NSF charge.

There have been two NSF charges. **I granted the landlord a monetary order in the sum of \$1820 plus the sum of \$50 in respect of the filing fee for a total of \$1870.**

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial 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: June 12, 2013

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Residential Tenancy Branch