



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding BC TRANS. FINANCING AUTHORITY  
C/O ASSOCIATED PROPERTY MGMT (2001) LTD  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MNR

### Introduction

This matter was conducted by way of a Direct Request Proceeding, pursuant to Section 55(4) of the *Residential Tenancy Act* in response to an application made by the landlord for an Order of Possession and a monetary order for unpaid rent.

The landlord submitted a signed Proof of Service of the Notice of Direct Request which declares that on April 9, 2013 the landlord served the tenant with the Notice of Direct Request by registered mail. Section 90 of the *Act* provides that a document is deemed to have been served 5 days after mailing. Based on the written submissions of the landlord, I find that the tenant has been served with the Notice of Direct Request proceeding requesting an Order of Possession and a monetary order.

### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent?  
Has the landlord established a monetary claim against the tenant for unpaid rent?

### Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of a residential tenancy agreement signed by the landlord and tenant on December 20, 2005 for a tenancy commencing on January 15, 2006 for the monthly rent of \$1,100.00 payable on the first day of each month;

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities which was issued on March 15, 2013 with an effective vacancy date of March 26, 2013 due to \$2,200.00 in unpaid rent which was due on May 1, 2013 (both pages of the 2-page form have been provided);
- A copy of the Proof of Service of the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities which states that the tenant was served with the notice on March 15, 2013, by registered mail; and
- The Landlord's Application for Dispute Resolution which was made on April 8, 2013, showing a claim of \$2,200.00 in outstanding rent. The details section states that the total amount owed by the tenant as of April 8, 2013 is \$2,200.00.

### Analysis

I have reviewed all documentary evidence and accept that the tenant has been served with the notice to end tenancy as declared by the landlord on March 15, 2013, by registered mail. The *Act* states that documents served in this manner are deemed to have been served 5 days after. Therefore, I find that the tenant was deemed to be served on March 20, 2013, and the effective date of vacancy is automatically changed to March 30, 2013 pursuant to Section 53 (1) of the *Act*.

I accept the evidence before me that the tenant has failed to dispute the notice or pay the rent owed in full, within the 5 days granted under Section 46 (4) of the *Act*. As a result, I find that the tenant is conclusively presumed under Section 46 (5) of the *Act* to have accepted that the tenancy ended on March 26, 2013. Therefore, the landlord is entitled to an Order of Possession for unpaid rent.

However, in relation to the monetary claim for \$2,200.00, there is insufficient details/evidence submitted with the application to explain what the \$2,200.00 monetary claim comprises of. According to the written tenancy agreement submitted, the rent amount per month payable by the tenant is \$1,100.00. Therefore, a claim for \$2,200.00 in the landlord's application suggests that this relates to two months worth of unpaid rent. However, if this were the case, then I am not clear about which two months the landlord is referring to; if this is not the case, then there is insufficient evidence provided to explain exactly what this amount relates to.

In the details section of the landlord's application, the landlord states that the tenant's owe \$2,200.00 as of April 8, 2013. I am unclear as to whether this includes April's rent

because, if this were the case, then the amount on the notice to end tenancy would be premature as this was issued on March 15, 2013 for \$2,200.00 unpaid rent relating to May, 2013.

As a result, I am unable to understand how this amount was reached by the landlord and I am unable to grant a monetary order with respect to the claim for unpaid rent.

### Conclusion

For the reasons set out above, I find the landlord is entitled to an Order of Possession effective 2 days after service on the tenants. This order must be served on the tenant and may be filed and enforced in the Supreme Court as an order of that Court.

I dismiss the landlord's claim for a monetary order with leave to re-apply.

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 18, 2013

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Residential Tenancy Branch