



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, MNSD, FF

### Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking an order of possession and a monetary order. The hearing was conducted via teleconference and was attended by the landlord and her translator

The landlord submitted documentary evidence the tenant was served with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* by registered mail on May 17, 2013 and her amended Application personally on May 31, 2013 in accordance with Section 89. The documentary evidence confirms that the personal service was witnessed by a third party.

Based on the evidence of the landlord, I find that the tenant has been sufficiently served with the documents pursuant to the *Act*.

### Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for unpaid rent; to a monetary order for unpaid rent and utilities; for all or part of the security deposit and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 38, 46, 55, 67, and 72 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 30, 2012 for a 1 year fixed term tenancy beginning on October 1,

2012 for the monthly rent of \$800.00 due on the 1<sup>st</sup> of each month and a security deposit of \$400.00 was paid. The tenancy agreement also required the tenant to pay 1/3 of gas and hydro utilities;

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on May 7, 2013 with an effective vacancy date of May 17, 2013 due to \$805.00 in unpaid rent and \$809.60 in unpaid utilities demanded on March 28, 2013; and
- A copy of utility bills and letters demanding payment of utility charges, including one dated March 28, 2013.

The landlord testified the tenant failed to pay the full rent owed for the months of May and June 2013 and utilities in the total amount of \$2,536.97 and that the tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent personally on May 7, 2013 and that this service was witnessed by a third party.

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.

### Analysis

I have reviewed all documentary evidence and accept that the tenant has been served with notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenant on June 5, 2011 and the effective date of the notice is amended to June 15, 2011, 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.

I find the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$2,586.97** comprised of \$1,600.00 rent owed; \$936.97 utilities and the \$50.00 fee paid by the landlord for this application.

I order the landlord may deduct the security deposit and interest held in the amount of \$400.00 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$2,186.97**.

This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order in the Provincial Court (Small Claims) 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: June 11, 2013

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Residential Tenancy Branch

