



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding COQUITLAM KINSMEN HOUSING  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MNSD, FF

### Introduction

This hearing dealt with a landlord's application for an Order of Possession and authorization to retain the tenant's security deposit for unpaid and/or loss of rent. The tenant did not appear at the hearing. The landlord testified that the hearing documents were sent to the tenant via registered mail at the rental unit address on August 15, 2013. The landlord provided the registered mail tracking number as proof of service and testified that the registered mail was returned as unclaimed. The landlord confirmed that the tenant continues to occupy the rental unit.

Section 90 of the Act deems a document to be received five days after mailing so that a recipient cannot avoid service by refusing to accept or pick up their mail. Based upon the evidence before me, I was satisfied the landlord sufficiently served the tenant with the hearing documents and I continued to hear from the landlord without the tenant present.

### Issue(s) to be Decided

1. Is the landlord entitled to an Order of Possession?
2. Is the landlord authorized to retain the security deposit?

### Background and Evidence

The landlord testified that the tenant is required to pay subsidized rent of \$569.00 per month. I heard that the tenant failed to pay the rent owing starting in the month of June 2013 but that Income Assistance did send the landlord the shelter portion of income assistance (\$375.00) for a couple of months.

On August 6, 2013 the landlord posted a 10 Day Notice to End Tenancy for Unpaid Rent (the Notice) on the door of the rental unit. The Notice has a stated effective date of August 16, 2013 and indicates that rent of \$308.00 was outstanding as of August 1,

2013. The tenant did not pay the outstanding rent and did not file an Application to dispute the Notice.

In addition to an Order of Possession, the landlord seeks authority to retain the \$400.00 security deposit in satisfaction of unpaid and/or loss of rent as the tenant remains in possession of the rental unit as of this date.

### Analysis

Under the Act, a tenant is required to pay rent when due in accordance with their tenancy agreement. Where a tenant does not pay rent the landlord is at liberty to issue a 10 Day Notice to End Tenancy.

When a tenant receives a 10 Day Notice the tenant has five days to pay the outstanding rent to nullify the Notice or the tenant has five days to dispute the Notice by filing an Application for Dispute Resolution. If a tenant does not pay the outstanding rent or dispute the Notice within five days then, pursuant to section 46(5) of the Act, the tenant is conclusively presumed to have accepted the tenancy will end and must vacate the rental unit by the effective date of the Notice.

I accept the evidence before me that the landlord posted a 10 Day Notice to End Tenancy on the door of the rental unit on August 6, 2013. As such, it is deemed to be received by the tenant three days later under section 90 of the Act. The effective date of the Notice automatically changes to comply with the Act and reads August 19, 2013 to sections 46 and 53 of the Act

Since the tenant did not pay the outstanding rent or dispute the Notice within five days of receiving the Notice I find the tenancy ended on August 19, 2013 and the landlord is entitled to regain possession of the rental unit. Provided with this decision is an Order of Possession effective two (2) days after service upon the tenant.

Based upon the evidence before me, I am satisfied that as of the date of this hearing the tenant owes the landlord at least \$400.00 in unpaid and/or loss of rent and I authorize the landlord to retain the security deposit in satisfaction of unpaid and/or loss of rent.

Conclusion

The landlord has been provided an Order of Possession effective two (2) days after service upon the tenant. The landlord has been authorized to retain the tenant's security deposit in satisfaction of any unpaid and/or loss of rent.

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: September 24, 2013

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Residential Tenancy Branch

