



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes OPR

### Introduction

This non-participatory, ex parte matter was conducted by way of a Direct Request proceeding, pursuant to section 55(4) of the Residential Tenancy Act (the "Act"), and dealt with an application for dispute resolution by the landlord for an order of possession for the rental unit.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on September 5, 2013, the landlord served the tenant with the Notice of Direct Request Proceeding, including the landlord's application, by registered mail. Section 90 of the Act states that the tenant was deemed served these documents 5 days later.

Based on the written submissions of the landlord, I find that the tenant has been served with the Direct Request Proceeding documents as required by section 89 of the Act.

### Issue(s) to be Decided

Is the landlord entitled to an order of possession for the rental unit due to unpaid rent?

### Background and Evidence

The landlord submitted the following additional evidentiary material:

- A copy of a residential tenancy agreement which was signed by the parties on September 18, 2012, indicating a monthly rent of \$1250 due on the first day of the month;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was dated on August 12, 2013, with a stated effective move out date of August 17, 2013, listing \$1250 in unpaid rent; and

- Proof that the tenant was served the Notice by leaving it with the tenant on August 12, 2013.

The effective move out date listed on the Notice, August 17, 2013, is automatically changed to the August 22, 2013, pursuant to section 53 of the Act that if the effective date stated in the notice is earlier than the earliest date permitted under the applicable section, the effective date is deemed to be the earliest date that complies with the section.

The Notice stated that the tenant had five days to pay the rent in full or apply for Dispute Resolution or the tenancy would end.

I have no evidence before me that the tenant paid the rent listed or filed an application for dispute resolution to dispute the Notice.

#### Analysis

I have reviewed all documentary evidence and accept that the tenant has been served with a notice to end tenancy as declared by the landlord.

I accept the evidence before me submitted by the landlord 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 that 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. Therefore, I find that the landlord is entitled to an order of possession for the rental unit.

Conclusion

I grant the landlord an order of possession for the rental unit effective two days after service on the tenant, which is enclosed with the landlord's Decision. This order is a legally binding, final order, and may be filed in the Supreme Court of British Columbia for enforcement as an order of that Court should the tenant fail to comply with the terms of the order of possession. The tenant is advised that costs of such enforcement may be recovered from the tenant.

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* and is being mailed to both the applicant and the respondent.

Dated: September 11, 2013

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Residential Tenancy Branch

