



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Canadian Mental Health Association  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNR, MNDC, O

### Introduction

This hearing dealt with an application by the tenant seeking to have a Ten Day Notice to End Tenancy for Unpaid Rent or Utilities set aside and a monetary order for compensation for loss or damage suffered under the Act, the regulation or the tenancy agreement. Both parties participated in the conference call hearing. Both parties gave affirmed evidence.

### Issues to be Decided

Is the tenant entitled to any of the above under the Act, the regulation or the tenancy agreement?

### Background and Evidence

The tenancy began on or about April 1, 2013. Rent in the amount of \$812.00 is payable in advance on the first day of each month. At the outset of the tenancy the tenant provided a \$350.00 security deposit.

The landlord gave the following testimony:

The tenant failed to pay rent in the month(s) of June – August and on August 8, 2013 the landlord served the tenant with a notice to end tenancy. The tenant further failed to pay rent in the month(s) of September. The landlord stated that the tenant has made one partial payment of \$1000.00 and that as of today's hearing the amount of unpaid rent is \$2248.00 and that they seek an order of possession to end the tenancy.

The tenant gave the following testimony:

The tenant stated that she has paid her rent in full and that the landlord has a history of losing her rent when she pays in cash. The tenant stated she received the notice on August 8, 2013 and filed an application on August 15, 2013.

### Analysis

I accept the landlord's testimony and I find that the tenant was served with a notice to end tenancy for non-payment of rent. The tenant did not pay the outstanding rent within 5 days of receiving the notice and did not apply for dispute resolution to dispute the notice within the 5 days as is required and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice. In the tenants own testimony she confirmed that she had filed outside of the five day timeframe. It is worth noting that even if the tenant had filed in time, the tenant did not provide sufficient evidence to prove her claim of full payment and my finding would still be the same. Based on the above facts I find that the landlord is entitled to an order of possession. The tenant must be served with the order of possession. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court. The Ten Day Notice to End Tenancy for Unpaid Rent or Utilities dated August 8, 2013 remains in full effect and force.

The landlord has not made an application seeking a monetary order however they are at liberty to make a separate application to do so if they choose.

The tenant did not provide sufficient evidence that she should be entitled to a monetary award and as a result I dismiss that portion of her application. The tenant has not been successful in her application.

### Conclusion

The landlord is granted an order of possession.

The tenants' application is dismissed in its entirety without leave to reapply.

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 30, 2013

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Residential Tenancy Branch

