



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding CAPREIT  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR MNR FF

### Introduction

This hearing dealt with an Application for Dispute Resolution filed on August 20, 2013, by the Landlord to obtain an Order of Possession for unpaid rent and utilities and a Monetary Order for unpaid rent and utilities and to recover the cost of the filing fee from the Tenant for this application.

The Landlord testified that the Tenant was served with copies of the Landlord's application for dispute resolution, Notice of dispute resolution hearing, and the Landlord's evidence, on August 23, 2013, by registered mail. Canada Post receipts were provided in the Landlord's testimony. Based on the submissions of the Landlord I find the Tenant is deemed served notice of this proceeding on August 28, 2013, five days after it was mailed, in accordance with section 90 of the Act. Therefore, I proceeded in the Tenant's absence.

### Issue(s) to be Decided

1. Is the Landlord entitled to an Order of Possession?
2. Has the Landlord proven entitlement to a Monetary Order?

### Background and Evidence

The Landlord submitted evidence that the parties entered into a fixed term tenancy agreement that began on January 10, 2013, which is scheduled to end on January 31, 2014. Rent is payable on the first of each month in the amount of \$750.00 plus hydro costs. On January 8, 2013, the Tenant paid \$375.00 as the security deposit.

The Landlord testified that the Tenant has been served two 10 Day Notices in July 2013. One on July 2, 2013 for \$748.99 in unpaid rent plus \$50.31 in unpaid utilities and another on July 23, 2013, for unpaid utilities of \$99.30. When they filed their application

on August 20, 2013, the Tenant owed \$849.30 which included \$750.00 for August rent plus the outstanding utilities of \$99.30 from July 2013.

The Landlord is seeking the Order of Possession and unpaid rent and utilities.

### Analysis

**Order of Possession** - 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 July 26, 2013, the third day after it was posted to the Tenant's door, and the effective date of the notice is August 5, 2013, pursuant to section 90 of the *Act*. I accept the evidence before me that the Tenant has failed to pay the rent and utilities 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 and I hereby grant the Landlord an Order of Possession.

**Monetary Order** – The evidence supports that the Tenant has failed to pay rent and utilities in accordance with section 26 of the *Act* which stipulates that a tenant must pay rent when it is due under the tenancy agreement. The Tenant has a balance owing of \$849.30 comprised of \$750.00 August 2013 rent plus \$99.30 in utilities that were due in July 2013. As per the aforementioned I find the Landlord has met the burden of proof and I award them a Monetary Order for **\$849.30**.

The Landlord has been successful with their application; therefore I award recovery of the **\$50.00** filing fee

### Conclusion

I HEREBY FIND that the Landlord is entitled to an Order of Possession effective **two days after service on the Tenant**. This Order is legally binding and must be served upon the Tenant.

The Landlord has been awarded a Monetary Order in the amount of **\$899.30** (\$849.30 + \$50.00). This Order is legally binding and must be served upon the Tenant. In the event that the Tenant does not comply with this Order it may be filed with the Province of British Columbia Small Claims Court and 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: October 01, 2013

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Residential Tenancy Branch

