



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Domus Management Ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

### Dispute Codes:

**OPR, MNR, FF**

### Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has made application for an Order of Possession for Unpaid Rent, a monetary Order for unpaid rent and to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

The agent for the landlord provided affirmed testimony that on September 6, 2013 copies of the Application for Dispute Resolution and Notice of Hearing were sent to the tenant via registered mail at the address noted on the Application. The landlord is holding a Canada Post tracking number and receipt as evidence of service. The landlord checked the Canada Post web site and confirmed the tenant had accepted the mail.

These documents are deemed to have been served in accordance with section 89 and 90 of the Act; however the tenant did not appear at the hearing.

The landlord's evidence was served as part of the hearing package given to the tenant.

The process of the hearing was explained and the landlord was given the opportunity to ask questions about the hearing process.

### Issue(s) to be Decided

Is the landlord entitled to an Order of possession for unpaid rent?

Is the landlord entitled to a monetary Order for unpaid rent?

Is the landlord entitled to filing fee costs?

### Background and Evidence

The tenancy commenced on February 1, 2011; rent is currently \$3,750.00, due on or before the 1<sup>st</sup> day of each month. The landlord is holding a \$1,800.00 security deposit.

A copy of the signed tenancy agreement and 2 Notice of rent increase given to the tenant were supplied as evidence.

The landlord stated that on August 8, 2013 a ten (10) day Notice to end tenancy for unpaid rent, which had an effective date of August 19, 2013 was personally served to the tenant. The landlord supplied a copy of a proof of service document, which was signed by the tenant on August 8, 2013, at 10 p.m.; confirming receipt of the Notice. A copy of the Notice was supplied as evidence.

The Notice indicated that the Notice would be automatically cancelled if the landlord received \$3,785.00 rent within five days after the tenant was assumed to have received the Notice. The Notice also indicated that the tenant was presumed to have accepted that the tenancy was ending and that the tenant must move out of the rental by the date set out in the Notice unless the tenant filed an Application for Dispute Resolution within five days.

On the 6<sup>th</sup> day after service, August 14, 2013, the tenant paid \$2,500.00. On September 17, 2013 the tenant paid a further \$5,000.00. No other payments had been made. The landlord said the tenant understands that he was required to pay all of the rent owed and that the tenancy is ending.

The landlord applied claiming compensation in the sum of \$8,905.00; the application indicated a claim for unpaid rent only. During the hearing the landlord said that they had wished to include unpaid parking and late fees.

The landlord said that rent owed to October 2013 is \$3,750.00.

### Analysis

In the absence of evidence to the contrary, I find that the tenant was served with a Notice to End Tenancy that required the tenant to vacate the rental unit on August 19, 2013, pursuant to section 46 of the Act. The tenant signed a proof of service document, confirming receipt of the Notice.

Section 46 of the Act stipulates that a tenant has five (5) days from the date of receiving the Notice to End Tenancy to either pay the outstanding rent or to file an Application for Dispute Resolution to dispute the Notice. The tenant did make a payment in the sum of \$2,500.00; made on the 6<sup>th</sup> day after he was deemed to have received the Notice ending tenancy. The tenant was required to pay all rent owed no later than August 13, 2013; \$3,750.00. I note that the balance included on the Notice was for parking, which is not unpaid rent.

Therefore, pursuant to section 46(5) of the Act, as all of the rent was not paid and the tenant did not dispute the Notice within 5 days of August 8 2013, I find that the tenant accepted that the tenancy has ended. On this basis I will grant the landlord an Order of Possession that is effective two days after the order is served to the tenant.

In the absence of evidence to the contrary, I find that the tenant has not paid rent in the amount of \$3,750.00 and that the landlord is entitled to compensation in that amount. From August to October 2013 the tenant owed \$11,250.00 and he has paid \$7,500.00.

I find that the landlord's application has merit and that the landlord is entitled to recover the \$100.00 filing fee from the tenant for the cost of this Application for Dispute Resolution. At the time of filing the application the tenant owed \$5,000.00 and the landlord had no confidence the tenant would pay October rent.

The landlord has been granted an Order of Possession that is effective 2 days after service to the tenant. This Order may be served on the tenant, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

I find that the landlord has established a monetary claim, in the amount of \$3,850.00, which is comprised of \$3,750.00 in unpaid rent and \$50.00 in compensation for the filing fee paid by the landlord for this Application for Dispute Resolution.

Based on these determinations I grant the landlord a monetary Order in the sum of \$3,850.00. In the event that the tenant does not comply with this Order, it may be served on the tenant, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

The balance of the claim is dismissed.

The application did not include a request for damage or loss under the Act, which would have encompassed parking and fees.

#### Conclusion

The landlord is entitled to compensation for unpaid rent from August to October 2013, inclusive.

The landlord is entitled to filing fee costs.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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 11, 2013

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Residential Tenancy Branch

