



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding VANCOUVER MANAGEMENT LTD  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR MNR

### Introduction

This hearing proceeded by way of Direct Request Proceeding, pursuant to section 55(4) of the Act, and dealt with an Application for Dispute Resolution by the Landlord for an Order of Possession for unpaid rent and a Monetary Order for unpaid rent.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on October 31, 2013, the Landlord served each Tenant by registered mail. Canada Post receipts were provided in the Landlord's evidence. Based on the written submissions of the Landlord, I find that each Tenant is deemed served with the Dispute Resolution Direct Request Proceeding documents on November 5, 2013, five days after they were mailed, pursuant to section 90 of the Act.

### Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession and a Monetary Order pursuant to section 55 of the *Residential Tenancy Act*?

### Background and Evidence

I have carefully reviewed the following evidentiary material submitted by the Landlord:

- A copy of the Proof of Service of the Notice of Direct Proceeding for each Tenant;
- A copy of a residential tenancy agreement which was signed by all parties for a month to month tenancy beginning July 24, 2013, for the monthly rent of \$925.00 due on or before the 1st of the month and a security deposit of \$462.50 was paid;

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, October 9, 2013, with an effective vacancy date listed as October 25, 2013, due to \$925.00 in unpaid rent that was due on October 1, 2013; and
- A notation that points out a clerical error on the 10 Day Notice where one of the Tenant's surname is spelled incorrectly, while the other Tenant's name is spelled correctly.

Documentary evidence filed by the Landlord indicates that the Tenants were served the 10 Day Notice to End Tenancy for Unpaid Rent on October 9, 2013, by registered mail. Canada Post receipts were provided in the Landlord's evidence.

### Analysis

Upon review of the 10 Day Notice I find the clerical error in spelling the female Tenant's surname does not void this Notice. I make this finding in part because the male Tenant's name was spelled correctly. As these two tenants have the same last name it is reasonable to conclude they knew the 10 Day Notice was issued to both of them, despite the spelling mistake. The two tenants were co-tenants and are therefore are jointly and severally liable for the payment of rent.

**Order of Possession** - I have reviewed all documentary evidence and accept that the Tenants have been served with notice to end tenancy as declared by the Landlord. The notice is deemed to have been received by the Tenants on October 14, 2013, five days after it was mailed, and the effective date of the notice is October 24, 2013, pursuant to section 90 of the *Act*. I accept the evidence before me that the Tenants have 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 Tenants are 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 Tenants have failed to pay the October 1, 2013, rent in violation of section 26 of the *Act* which provides that a tenant must pay rent when it is due under the tenancy agreement. As per the aforementioned I approve the Landlord's request for a Monetary Order for **\$925.00**.

Any deposits currently held in trust by the Landlord are to be administered in accordance with Section 38 of the *Residential Tenancy Act*.

Conclusion

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

The Landlord has been awarded a Monetary Order in the amount of **\$925.00**. This Order is legally binding and must be served upon the Tenants. In the event that the Tenants do 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: November 06, 2013

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Residential Tenancy Branch

