



# 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 was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for an Order of Possession for Unpaid Rent, a monetary Order for unpaid rent, and to recover the fee for filing an Application for Dispute Resolution.

The Agent for the Landlord stated that the Application for Dispute Resolution, the Notice of Hearing, and documents the Landlord wishes to rely upon as evidence were sent to the male Respondent, via registered mail, on October 24, 2013. The Landlord submitted Canada Post documentation that corroborates this statement. In the absence of evidence to the contrary, I find that these documents have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*, however the male Respondent did not appear at the hearing.

The Agent for the Landlord stated that the Application for Dispute Resolution, the Notice of Hearing, and documents the Landlord wishes to rely upon as evidence were sent to the female Respondent, via registered mail, on October 24, 2013. The Landlord submitted Canada Post documentation that corroborates this statement.

The Tenant submitted documents to the Residential Tenancy Branch on November 29, 2013. The Agent for the Landlord stated that the Landlord received these documents, by mail, approximately one week prior to this hearing. I therefore accept the documents as evidence for these proceedings and consider them when rendering a decision in this matter.

On the basis of the information contained in the Tenant's evidence, I find it reasonable to conclude that the female Respondent has received the Landlord's Application for Dispute Resolution, the Notice of Hearing, and documents the Landlord wishes to rely upon as evidence. I therefore find that these documents have been sufficiently served to the female Respondent, pursuant to section 71(2)(c) of the *Act*, however the female Respondent did not appear at the hearing.

Issue(s) to be Decided:

Is the Landlord entitled to an Order of Possession for unpaid rent and to a monetary Order for unpaid rent?

Background and Evidence:

The Agent for the Landlord stated that this tenancy began on July 01, 2013; that there is a written tenancy agreement for the rental unit, which names the female Respondent as a tenant and the male Respondent as an occupant; that the Landlord has never entered into an oral or written tenancy agreement with the male Respondent; and that the female Respondent agreed to pay rent of \$930.00 by the first day of each month.

In a written submission the female Respondent stated that in mid-September she provided written notice of her intent to vacate the rental unit. The written submission does not specify the intended end date of the tenancy. The Agent for the Landlord stated that she does not have a copy of the written notice that was allegedly provided; that she does not know if written notice was provided to an agent for the Landlord; that there was a change in management of the residential complex on August 28, 2013; and that it is possible that written notice was provided.

The female Respondent submitted a letter from her mother, in which the mother declared she observed her daughter place written notice to end the tenancy under the resident manager's door in mid-September.

The Agent for the Landlord stated that \$425.00 in rent was paid for October and that \$505.00 in rent is still due for that month, plus \$10.00 for parking. The Landlord is seeking \$505.00 in unpaid rent for October. The Agent for the Landlord stated that the claim for unpaid rent of \$845.00 noted on the Application for Dispute Resolution was an error on her part.

The Landlord is also seeking \$930.00 in rent from November of 2013, as none has been paid and the rental unit is still occupied by the male Respondent. The Agent for the Landlord stated that she now understands the female Respondent vacated the rental unit at the end of September, although she was not aware of that until she received the Tenant's evidence package and subsequently spoke with the female Respondent. In the written submission the female Respondent's mother makes reference to the female Respondent ending the tenancy on September 30, 2013.

During the hearing the Agent for the Landlord applied to amend the Application for Dispute Resolution to include a claim for unpaid rent for December of 2013.

The Site Administrator stated that she put a Ten Day Notice to End Tenancy for Unpaid Rent, which had an effective date of October 16, 2013, on the door of the rental unit on October 03, 2013. A copy of the Notice was submitted in evidence.

### Analysis

On the basis of the undisputed evidence, I find that the male Respondent is an occupant of the rental unit and that he did not agree to pay monthly rent. As the male Respondent has no rights or obligations under this tenancy agreement, I dismiss the Landlord's application for a monetary Order naming this individual.

On the basis of the written submission of the female Respondent and her mother, and the testimony of the Agent for the Landlord, I accept that the Tenant provided written notice to end her tenancy sometime during the middle of September of 2013.

To end this tenancy on September 30, 2013 in accordance with section 45 of the *Act*, the female Respondent was required to give notice of her intent to vacate on, or before, August 31, 2013. Section 53 of the *Act* stipulates that if a tenant gives notice to end a tenancy on a date that is earlier than the earliest date permitted by the legislation, the effective date is deemed to be the earliest date that complies with the legislation. I therefore find that the written notice the female Respondent provided in mid-September effectively ended this tenancy on October 31, 2013. Therefore, I find that the female Respondent was obligated to pay rent when it was due on October 01, 2013. As \$505.00 in rent is outstanding from October of 2013, I find that the female Respondent must pay this amount to the Landlord.

On the basis of the information before me, I find that the female Respondent vacated the rental unit on September 30, 2013 and that the male Respondent is still occupying the rental unit. As the male Respondent was living in the rental unit at the invitation of the female Respondent, I find that she was obligated to ensure that he vacated the rental unit at the end of the tenancy. If necessary, that would include contacting the police and requesting their assistance in having him removed if he did not willingly vacate the rental unit at the end of the tenancy.

As the female Respondent did not take reasonable measures to ensure her guest vacated the rental unit when she vacated the rental unit, I find that she remains obligated to pay rent while the male Respondent remains in the rental unit. I therefore find that the female Respondent owes the Landlord \$930.00 in rent for November of 2013.

I find that it is reasonable for the female Respondent to assume that the Landlord would be seeking compensation for unpaid rent for December if the rental unit was still occupied in December. I therefore grant the Landlord's application to amend the Application for Dispute Resolution to include unpaid rent from December of 2013 and I find that the female Respondent must also pay \$90.00 in rent for the first three days of December, at a per diem rate of \$30.00. I am unable to award compensation for rent for the remainder of December, as it is possible the male Respondent may vacate the rental unit prior to December 04, 2013 and the Landlord has not applied for lost revenue.

On the basis of the undisputed evidence, I find that a Notice to End Tenancy, served pursuant to section 46 of the *Act*, was posted on the door of the rental unit on October 03, 2013. As rent has not been paid and a Notice to End Tenancy was served in accordance with section 88 of the *Act*, I find that the Landlord has the right to end this tenancy pursuant to section 46 of the *Act*. On this basis I find that the Landlord is entitled to an Order of Possession.

I find that the Landlord's application has merit and that the Landlord is entitled to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

### Conclusion

I grant the Landlord an Order of Possession that is effective two days after it is served upon 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.

The Landlord has established a monetary claim, in the amount of \$1,515.00, which is comprised of \$1,465.00 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 for this amount. 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.

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: December 04, 2013

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Residential Tenancy Branch

