



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Magsen Realty Inc.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR MNR MNSD MNDC FF

### Introduction

This hearing dealt with an application by the landlord for an order of possession and a monetary order for unpaid rent.

The landlord participated in the teleconference hearing, but the tenant did not call into the hearing. The landlord submitted evidence that they served the tenant with the application for dispute resolution and notice of hearing by registered mail sent December 5, 2013. Section 90 of the Act states that a document is deemed to have been served five days after mailing. I found that the tenant was deemed served with notice of the hearing on December 10, 2013, and I proceeded with the hearing in the absence of the tenant.

### Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order?

### Background and Evidence

The tenancy began on July 1, 2013. Rent in the amount of \$800 is payable in advance on the first day of each month. At the outset of the tenancy, the landlord collected a security deposit from the tenant in the amount of \$400. The tenant failed to pay \$500 of the rent in October 2013 and paid no rent in November 2013 and on November 7, 2013 the landlord served the tenant with a notice to end tenancy for non-payment of rent.

The Landlord submitted the following evidence:

- a copy of a residential tenancy agreement, signed by the tenant and the landlord;
- a copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, issued on November 7, 2013, with an effective vacancy date of November 17, 2013, for failure to pay rent in the amount of \$1300 that was due on November 1, 2013;
- testimony that the tenant was personally served the 10 Day Notice to End Tenancy for Unpaid Rent on November 7, 2013; and
- a tenant ledger and testimony showing that that as of the hearing date, the tenant owed \$1700 in unpaid rent.

### Analysis

I have reviewed all evidence and I accept that the tenant was served with the notice to end tenancy as declared by the landlord.

I accept the evidence before me that the tenant has failed to pay the rent owed within the five days granted under section 46(4) of the Act. 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. The landlord is therefore entitled to an order of possession.

As for the monetary order, I find that the landlord has established a claim for \$1700 in unpaid rent. The landlord is also entitled to recovery of the \$50 filing fee.

### Conclusion

I grant the landlord an order of possession effective two days from service. 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 landlord is entitled to \$1750. I order that the landlord retain the security deposit of \$400 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$1350. This order may be filed in the 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: January 27, 2014

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Residential Tenancy Branch

