



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      Landlord: OPR, MNR, MNSD, FF  
Tenant: CNR, FF

### Introduction

This hearing dealt with cross Applications for Dispute Resolution. The landlord sought an order of possession and a monetary order. The tenant sought to cancel a notice to end tenancy.

The hearing was conducted via teleconference and was attended by the landlord.

The landlord testified the tenant was served with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* by registered mail on November 22, 2013 in accordance with Section 89. As per Section 90, the documents are deemed received by the tenant on the 5<sup>th</sup> day after it was mailed.

Based on the testimony of the landlord, I find that the tenant has been sufficiently served with the documents pursuant to the *Act*.

In addition this hearing was convened, in part, as the result of the tenant's Application for Dispute Resolution seeking to cancel a notice to end tenancy. As such, I am satisfied the tenant was very well aware of this hearing; the date and time; and the call in procedures.

### Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for unpaid rent; to a monetary order for unpaid rent; for all or part of the security deposit and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 38, 46, 55, 67, and 72 of the *Residential Tenancy Act (Act)*.

It must also be decided if the tenant is entitled to cancel a 10 Day Notice to End Tenancy for Unpaid Rent and to recover the filing fee from the landlord for the cost of the Application for Dispute Resolution, pursuant to Sections 46, 67, and 72 of the *Act*.

### Background and Evidence

The landlord submitted the following documentary evidence:

- A copy of a residential tenancy agreement which was signed by the parties on May 19, 2013 for a 10 month and 1 day fixed term tenancy beginning on June 1, 2012 for the monthly rent of \$1,850.00 due on the 1<sup>st</sup> of each month and a security deposit of \$925.00 was paid; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on November 5, 2013 with an effective vacancy date of November 15, 2013 due to \$5,550.00 in unpaid rent.

Documentary evidence filed and testimony provided by the landlord indicates the tenant failed to pay the full rent owed for the months of September, October and November 2013 and that the tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent by posting it to the rental unit door on November 5, 2013 at 6:00 p.m. and that this service was witnessed by a third party. The tenant submits, in her Application for Dispute Resolution that she received the Notice on November 8, 2013

The Notice states the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant did apply to dispute the Notice to End Tenancy within five days. The landlord submits that the tenant has failed to pay any amount of rent for September, October, November, December 2013 or January 2014.

### Analysis

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 November 8, 2013 and the effective date of the notice is amended to November 18, 2013, pursuant to Section 53 of the *Act*.

In the absence of the tenant to support her Application seeking to cancel the Notice, I dismiss the tenant's Application in its entirety.

Section 55(1) of the *Act* states if a tenant makes an Application for Dispute Resolution to dispute a landlord's notice to end tenancy, the director must grant an order of possession to the landlord if, the landlord makes an oral request for an order of possession and the director dismisses the tenant's Application or upholds the landlord's notice.

As the landlord's Application was, in part, to seek an order of possession and I have dismissed the tenant's Application and the landlord's testimony is undisputed regarding the non-payment of rent for five months I find the landlord is entitled to an order of possession.

Conclusion

I find the landlord is entitled to an order of possession effective **two days after service on the tenant**. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

I find the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$9,350.00** comprised of \$9,250.00 rent owed and the \$100.00 fee paid by the landlord for this application.

I order the landlord may deduct the security deposit and interest held in the amount of \$925.00 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$8,425.00**.

This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be 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 08, 2014

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Residential Tenancy Branch

