



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute codes      OP MNR MNSD FF

### Introduction

This hearing dealt with an application by the landlord for an order of possession and a monetary order. The hearing was conducted by conference call. The landlord and the tenant called in and participated in the hearing. The landlord served the tenant with the application for dispute resolution by registered mail sent on December 3, 2013. The landlord testified that the tenant failed to pick up the registered mail and the package was returned to him undelivered. The landlord testified that the tenant must have learned of the hearing because he told the woman who was staying with the tenant in the rental unit about the application and she must have passed the information on to the tenant.

### Issues

Is the landlord entitled to an order of possession?  
Is the landlord entitled to a monetary order?

### Background and Evidence

This tenancy began approximately three years ago. The rental unit is a house in Langley. The rent is \$1,000.00 due in advance on the first day of each month. The tenant did not pay a security deposit. The landlord testified that the tenant has paid rent sporadically throughout the tenancy. He last paid rent in August 2013. On November 18, 2013 the landlord served the tenant with a Notice to End Tenancy for non-payment of rent by posting it to the door of the rental unit. The landlord supplied photographs showing the Notice to End Tenancy affixed to the door of the rental unit. The Notice was for unpaid rent in the amount of \$3,000.00, being unpaid rent for September, October and November. The landlord testified that he has received notes and promises to pay since the Notice was given but no rent has been paid and rent for December and January is now due as well.

At the hearing the tenant claimed that he did not receive the Notice to End Tenancy and never saw it posted to the door. He said that he has paid some rent by putting cash under the landlord's door mat, but he could not say when he did this or what amount he paid. He acknowledged that he paid no rent for January however he said he paid some rent in December. The tenant did not provide any documents to show a payment and provided no specifics of any payments to the landlord. The landlord said in response

that the tenant has not paid any amount since August, 2013. He referred to the documents that he submitted as evidence; they included numerous promises from the tenant to pay rent given by text message and handwritten notes.

### Analysis

I accept the landlord's testimony that the tenant has paid no rent since August and I accept that the tenant was served with the Notice to End Tenancy as the landlord testified and as shown in the photographs submitted. Pursuant to section 90 of the *Residential Tenancy Act*, the tenant is deemed to have received the Notice to End Tenancy on the third day after it was posted to the door. The tenant's evidence that he made payments by placing cash under the landlord's door mat is simply not believable, particularly when the tenant could not even provide the date or amount of any particular payment. Section 46 of the Act requires that upon receipt of a Notice to End Tenancy for non-payment of rent the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. I find that the tenant was served with the Notice to End Tenancy and that he has not paid any rent since the Notice was given. The tenant is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice.

### Conclusion

*Order of Possession* - Based on the above background, evidence and analysis I find that the landlord is entitled to an order of possession effective two days after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

*Monetary Order and Security Deposit* – The tenant acknowledged that rent for January has not been paid and I therefore permit the landlord to amend his claim to include a claim for January rent. I find that the landlord has established a total monetary claim of \$5,000.00 for the outstanding rent for September, October, November, December and January. The landlord is entitled to recover the \$50.00 filing fee for this application for a total award of \$5,050.00 and I grant the landlord an order under section 67 in the said amount. 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 23, 2014

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Residential Tenancy Branch

