



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      Landlords: OPR, MNR, MNSD, MNDC, FF  
Tenant: CNR, FF

### Introduction

This hearing dealt with cross Applications for Dispute Resolution. The landlords 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 landlords only.

The landlords 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)* personally on January 18, 2014 in accordance with Section 89.

Based on the testimony of the landlord and the fact that the tenant had also file an Application to dispute the notice to end tenancy, I find that the tenant has been sufficiently served with the documents pursuant to the *Act* and was sufficiently aware of the matters at issue during this hearing.

### Issue(s) to be Decided

The issues to be decided are whether the landlords are 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 are 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 landlords for the cost of the Application for Dispute Resolution, pursuant to Sections 46, 67, and 72 of the *Act*.

### Background and Evidence

The landlord testified the tenancy began in May 2013 as a month to month tenancy for a monthly rent of \$1,100.00 due on the 5<sup>th</sup> of each month with a security deposit of \$550.00 and a pet damage deposit of \$100.00 paid.

The landlord provided into evidence a copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on January 7, 2014 with an effective vacancy date of January 17, 2014 due to \$1,100.00 in unpaid rent.

The landlord testified the tenant failed to pay the full rent owed for the month of January 2014 and that the tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent personally on January 7, 2014 and that this service was witnessed by a third party.

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 not pay the rent in full but did apply to dispute the Notice to End Tenancy six days after receiving the Notice (January 13, 2014). The landlords submit the tenant also has not paid any rent for the month of February 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 was received by the tenant on January 7, 2014 and the effective date of the notice was January 17, 2014. I accept the evidence before me that the tenant 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 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.

As the tenant filed his Application on the 6<sup>th</sup> day after receipt of the Notice and he has failed to attend this hearing seeking to dispute the Notice I dismiss the tenant's Application in its entirety.

### 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 landlords are entitled to monetary compensation pursuant to Section 67 in the amount of **\$2,250.00** comprised of \$2,200.00 rent owed and the \$50.00 fee paid by the landlords for this application.

I order the landlord may deduct the security deposit and pet damage deposit held in the amount of \$650.00 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$1,600.00**.

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: February 25, 2014

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Residential Tenancy Branch

