



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes**      OPR MNR

### **Introduction**

This matter was conducted by way of Direct Request Proceeding, pursuant to section 55(4) of the *Residential Tenancy Act* (the Act). The landlord applied for an order of possession and a monetary order for unpaid rent.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding, which declares that on February 12, 2014, the landlord served the tenant with notice of the Direct Request Proceeding by registered mail. Section 90 of the Act states that a document is deemed to have been served five days later on February 17, 2014. Based on the landlord's written submissions, I find that the tenant has been served with the Direct Request Proceeding documents.

On February 15, 2014, the landlord filed an amendment to her application. The landlord explains that on February 12, the tenant paid a portion of the rent owed. However, despite having received a payment from the tenant towards the unpaid rent owed, the monetary amount of the landlord's claim is greater in the amended application as compared to the original application. In addition, the landlord has filed a note from the tenant with deductions for the loss of use two rooms. Since the landlord has not provided adequate information about the amount of rent owed, I dismiss the monetary portion of the landlord's application with leave to reapply.

### **Issue(s) to be Decided**

Is the landlord entitled to an order of possession?

### **Background and Evidence**

The Landlord submitted the following evidentiary material:

- a copy of a residential tenancy agreement, signed by the parties on September 11, 2013 indicating a monthly rent of \$1,800.00 is due on the first of each month;

- a copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, issued on February 04, 2014, with an effective vacancy date of February 14, 2014, for failure to pay rent in the amount of \$2,700.00 that was due on February 01, 2014;
- a copy of the Proof of Service of a Notice to End Tenancy for Unpaid Rent or Utilities, showing that the tenant was personally served the 10 Day Notice to End Tenancy for Unpaid Rent in the presence of a witness on February 04, 2014
- a copy of the Landlord's Application for Dispute Resolution, filed February 12, 2014, indicating that the tenant had still not paid the outstanding rent.

### **Analysis**

I have reviewed all documentary evidence and I accept that the tenant has been 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 all 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. I therefore find that the landlord is entitled to an order of possession.

### **Conclusion**

I grant the landlord an order of possession effective two days after service on the tenant. 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.

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 19, 2014

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Residential Tenancy Branch

