



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Bourbon Hotel  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MNR, FF

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I waited until 10:12 a.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 10:00 a.m. The landlord attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The male landlord (the landlord) testified that he posted the 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) on the tenant's door on January 2, 2014. The female landlord confirmed that she observed the landlord post the 10 Day Notice on the tenant's door as claimed by the landlord. The female landlord testified that she handed the tenant a copy of the landlord's dispute resolution hearing package on January 16, 2014. The landlord confirmed that he witnessed the female landlord's handing of the hearing package to the tenant on January 16, 2014. I am satisfied that the landlord served the above documents to the tenant in accordance with the *Act*.

At the commencement of the hearing, the landlord testified that a social worker paid the \$57.00 identified as owing in the 10 Day Notice on January 15, 2014. At that time, the landlord discussed this matter with the tenant and the landlord said that the tenant agreed that the \$57.00 payment did not reinstate this tenancy but only enabled the tenant to remain in the rental unit until February 1, 2014. By that time, the tenant committed to have vacated the rental unit. The landlord said that the tenant remains in this rental unit. The landlord withdrew all monetary elements of this claim, but requested the issuance of an Order of Possession on the basis of the 10 Day Notice. The landlord's application for a monetary award and recovery of the filing fee are hereby withdrawn.

Although the landlord said that a \$519.00 cheque had been received from the Ministry of Social Development and Social Innovation (the Ministry) on the tenant's behalf for February 2014, the landlord said that he provided the tenant with the proceeds of that cheque so that he could obtain accommodations elsewhere for March 2014.

#### Issues(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent?

#### Background and Evidence

This periodic tenancy for a room in a single room occupancy hotel commenced on November 1, 2012. Monthly rent was initially set at \$500.00. As of November 1, 2013, the monthly rent increased to \$519.00, as per a legally authorized Notice of Rent Increase served to the tenant, a copy of which was entered into written evidence by the landlord. The landlord continues to hold the tenant's \$250.00 security deposit paid on November 1, 2012.

The landlord testified that the tenant did not pay the \$19.00 rent increase for November and December 2013 and January 2014. This resulted in the landlord's issuance of the 10 Day Notice seeking the recovery of \$57.00 in rent owing as of January 1, 2014. The landlord gave sworn testimony that no payment was received for this tenancy for the \$57.00 identified as owing on the 10 Day Notice within 5 days of the deemed service of that Notice to the tenant on January 5, 2014.

#### Analysis

Based on the undisputed sworn testimony of the landlord, I find that the landlord's acceptance of the January 15, 2014 payment of \$57.00 from the social worker on the tenant's behalf did not reinstate this tenancy. I accept the landlord's testimony that the tenant fully understood at that time that he was only being allowed to remain in the rental unit until February 1, 2014, by which time he had agreed to vacate the premises.

The tenant failed to pay the amount identified as owing in the 10 Day Notice in full within five days of being deemed to have received the 10 Day Notice on January 5, 2014. The tenant has not made application pursuant to section 46(4) of the *Act* within five days of being deemed to have received the 10 Day Notice. In accordance with section 46(5) of the *Act*, the tenant's failure to take either of these actions within five days led to the end of his tenancy on the effective date of the notice. In this case, this required the tenant to vacate the premises by January 15, 2014. As that has not occurred, I find that the landlord is entitled to a 2 day Order of Possession. The landlord will be given a formal Order of Possession which must be served on the tenant. If the tenant does not vacate

the rental unit within the 2 days required, the landlord may enforce this Order in the Supreme Court of British Columbia.

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant(s). Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

The remainder of the landlord's application is withdrawn.

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 13, 2014

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Residential Tenancy Branch

