



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 1963 Investments Ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MNR, MNSD, FF

### Introduction

This hearing dealt with the landlord's application for dispute resolution under the Residential Tenancy Act (the "Act") for an order of possession for the rental unit due to unpaid rent, a monetary order for unpaid rent and money owed, for authority to retain the tenant's security deposit, and to recover the filing fee.

The landlords' representative attended; the tenant did not attend the telephone conference call hearing.

The landlord gave evidence that they served the tenant with the Application for Dispute Resolution and Notice of Hearing by attaching the documents to the tenant's door on May 5, 2014.

The landlord was provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

*Preliminary matter*-Section 89(1) of the Residential Tenancy Act requires that an application for dispute resolution be served upon the respondent (the tenant in this case) by leaving it with the person or by registered mail.

For an order of possession for the rental unit, however, under section 89(2) a landlord is permitted to serve the tenant their application for dispute resolution by attaching the documents to the tenant's door, as is the case here.

As the landlord served the tenant the notice of the dispute resolution proceeding and application for dispute resolution by attaching the documents to the tenant's door, based upon the submissions of the landlord, I therefore find the tenant was served notice of this proceeding and the landlord's application in a manner complying with section 89(2) of the Act and **the matter proceeded on the portion of the landlord's application for an order of possession for the rental unit only.**

I dismiss that portion of the landlord's application for dispute resolution seeking a monetary order for unpaid rent, with leave to reapply.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for the rental unit due to unpaid rent and to recover the filing fee?

Background and Evidence

The landlord gave evidence that this single room occupancy tenancy began on October 1, 2011, monthly rent is \$600, and a security deposit of \$300 was paid by the tenant at the beginning of the tenancy.

The landlord gave evidence that on April 2, 2014, the tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice"), by attaching it to the tenant's door, listing unpaid rent of \$1200 as of April 1, 2014. The effective vacancy date listed on the Notice was April 12, 2014.

Section 90 of the Act states that documents served by posting on the door are deemed delivered three days later. Thus the tenant was deemed to have received the Notice on April 5, 2014, and the effective move out date is automatically changed to April 15, 2014, pursuant to section 53 of the Act.

The Notice informed the tenant that the Notice would be cancelled if the rent was paid within five days. The Notice also explained that alternatively the tenant had five days to dispute the Notice by making an application for dispute resolution.

The landlord stated that the tenant has not made any further rent payments and as of and as of the date of the hearing, the tenant owed \$2400 in unpaid rent.

I have no evidence before me that the tenant applied to dispute the Notice.

Analysis

Based on the undisputed evidence of the landlord, I find the tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent, did not pay the outstanding rent or file an application for dispute resolution in dispute of the Notice within five days of service and is therefore 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 for the rental unit effective two days after service of the order upon the tenant.

I also allow the landlord to recover the filing fee for this application of \$50.

Conclusion

The portion of the landlord's application for an order of possession for the rental unit has been granted.

I grant the landlord a final, legally binding order of possession for the rental unit, which is enclosed with the landlord's Decision. Should the tenant fail to vacate the rental unit pursuant to the terms of the order after being served, the order may be filed in the Supreme Court of British Columbia for enforcement as an order of that Court. The tenant is advised that costs of such enforcement are recoverable from the tenant.

The portion of the landlord's application for a monetary order for unpaid rent has been dismissed, with leave to reapply.

At the landlord's request, I allow the landlord to retain \$50 from the tenant's security deposit of \$300 to recover the filing fee.

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* and is being mailed to both the applicant and the respondent.

Dated: June 17, 2014

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Residential Tenancy Branch

