



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR

### Introduction

This hearing dealt with an Application for Dispute Resolution under the *Residential Tenancy Act* (the “*Act*”) by the landlord for an order of possession for unpaid rent or utilities.

The landlord and a witness for the landlord appeared at the teleconference hearing and gave affirmed testimony. During the hearing the landlord and his witness were given the opportunity to provide his evidence orally. A summary of the evidence is provided below and includes only that which is relevant to the matters before me.

As the tenants did not attend the hearing, service of the Notice of a Dispute Resolution Hearing (the “Notice of Hearing”), Application for Dispute Resolution (the “Application”) and documentary evidence was considered. The landlord testified that the tenants were served the Notice of Hearing, Application and documentary evidence on May 6, 2014, at the rental unit 11:00 a.m., which was witnessed by third party, “BJ”. Witness “BJ” stated under oath that he was with the landlord when the tenants were served with the Notice of Hearing, Application and documentary evidence which was posted to their door on May 6, 2014 at 11:00 a.m. Section 90 of the *Act* indicates that documents posted to the door are deemed served three days after they are posted. Based on the undisputed testimony of the landlord, which was supported by landlord witness “BJ”, I accept that the tenants were deemed served with the Notice of Hearing, Application and documentary evidence in accordance with the *Act* as of May 9, 2014.

### Issue to be Decided

- Is the landlord entitled to an order of possession under the *Act*?

### Background and Evidence

The landlord stated that an oral tenancy agreement began with the tenants on November 27, 2013. The landlord testified that monthly rent of \$900.00 is due on the first day of each month and that the tenants continue to occupy the rental unit, although they have failed to pay rent for the months of February to June 2014, inclusive. The landlord stated that the tenants paid a security deposit of \$450.00 at the start of the tenancy.

The landlord submitted a copy of the 10 Day Notice in evidence which is dated March 3, 2014. The landlord testified that the 10 Day Notice was personally served on the tenants at the rental unit on March 3, 2014 at 4:50 p.m., which was witnessed by third party “BJ”. The

amount listed as owing is \$1,800.00 due March 1, 2014, and is comprised of full February and March 2014 rent of \$900.00 for each month. The landlord testified that the tenants did not pay the amount owing or dispute the 10 Day Notice within 5 days of the date they were deemed served on March 6, 2014. The landlord stated that the tenants have not paid rent since January 2014 and continue to occupy the rental unit. The effective vacancy date on the 10 Day Notice is listed as March 15, 2014, which corrects automatically under the *Act* to March 16, 2014, as documents posted to the door are deemed served three days later pursuant to section 90 of the *Act*.

### Analysis

Based on the documentary evidence and the undisputed testimony provided during the hearing, and on the balance of probabilities, I find the following.

A tenancy agreement as defined under the *Act* allows for an agreement, whether written or oral, express or implied, between a landlord and a tenant respecting possession of a rental unit, use of common areas and services and facilities.

**Order of Possession** - I find that the tenants failed to pay the rent or dispute the 10 Day Notice within 5 days after receiving the 10 Day Notice, and that the tenants are conclusively presumed pursuant to section 46 of the *Act*, to have accepted that the tenancy ended on the effective vacancy date on the 10 Day Notice which in the matter before me is March 16, 2014. I also accept the landlord's undisputed testimony that the tenants continue to occupy the rental unit and did not comply with the 10 Day Notice effective vacancy date.

Accordingly, and pursuant to section 55 of the *Act*, **I grant** the landlord an order of possession effective **two (2) days after service on the tenants**. This order must be served on the tenants and may be enforced in the Supreme Court of British Columbia.

### Conclusion

The landlord has been granted an order of possession effective two (2) days after service on the tenants. This order must be served on the tenants and may be enforced in the Supreme Court of British Columbia.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and 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: June 23, 2014

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Residential Tenancy Branch

