



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding LEONIC INVESTMENTS INC  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR MNR

### Introduction

This hearing proceeded by way of Direct Request Proceeding, pursuant to section 55(4) of the Act, and dealt with an Application for Dispute Resolution by the Landlord for an Order of Possession for unpaid rent 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 June 27, 2014, the Landlord served the Tenant by registered mail. Canada Post receipts were provided in the Landlord's evidence. Based on the written submissions of the Landlord, I find that the Tenant is deemed served with the Dispute Resolution Direct Request Proceeding documents on July 2, 2014, five days after they were mailed, pursuant to section 90 of the Act.

### Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession and a Monetary Order pursuant to section 55 of the *Residential Tenancy Act*?

### Background and Evidence

I have carefully reviewed the following evidentiary material submitted by the Landlord:

- A copy of the Proof of Service of the Notice of Direct Proceeding for the Tenant;
- A copy of a residential tenancy agreement which was signed by all parties for a fixed term tenancy agreement that commenced on June 1, 2013 and switched to a month to month tenancy after November 30, 2013, for the monthly rent of \$830.00 due on or before the 1st of each month;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, June 4, 2014, with an effective vacancy date listed as June 14, 2014, due to \$2,440.00 in unpaid rent that was due on June 1, 2014; and

- A notation on the application which indicates the Tenant has an accumulated balance due of \$2,440.00 comprised of \$500.00 for January, \$460.00 for March, \$500.00 for April, \$130.00 for May plus \$850.00 for June 2014.

Documentary evidence filed by the Landlord indicates that the Tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent on June 4, 2014, at 11,21 p.m., when it was posted to the Tenant's door, in the presence of a witness.

### Analysis

**Order of Possession** - 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 is deemed to have been received by the Tenant on June 7, 2014, three days after it was posted, and the effective date of the notice is June 17, 2014, pursuant to section 90 of the *Act*. I accept the evidence before me that the Tenant has 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 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 and I hereby grant the Landlord an Order of Possession.

**Monetary Order** – The evidence supports that the Tenant failed to pay the accumulated outstanding rent that was due on June 1, 2014, in violation of section 26 of the *Act* which provides that a tenant must pay rent when it is due under the tenancy agreement.

The Direct Request procedure is based upon written submissions only and requires that the submissions be sufficiently clear, valid and supported by evidence in order to succeed.

In this case the Landlord has sought a monetary order for \$2,440.00 which is comprised of \$500.00 for January, \$460.00 for March, \$500.00 for April, \$130.00 for May plus \$850.00 for June 2014. However, the tenancy agreement indicates rent is \$830.00 not \$850.00, as claimed for June 2014, and no evidence was submitted to support that the rent was increased in accordance with the *Act*. Accordingly, I have reduced the monetary claim to reflect the rent of \$830.00 for June 2014, and award the Landlord **\$2,420.00**. The remaining \$20.00 claimed for June 2014 is dismissed, without leave to reapply.

Any deposits currently held in trust by the Landlord are to be administered in accordance with Section 38 of the *Residential Tenancy Act*.

### Conclusion

The Landlord has been granted an Order of Possession effective **Two (2) Days after service upon the Tenant**. This Order is legally binding and must be served upon the Tenant. In the event that the Tenant does not comply with this Order it may be filed with

the Province of British Columbia Supreme Court and enforced as an Order of that Court.

The Landlord has been awarded a Monetary Order in the amount of **\$2,420.00**. This Order is legally binding and must be served upon the Tenant. In the event that the Tenant does not comply with this Order it may be filed with the Province of British Columbia Small Claims Court 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: July 07, 2014

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Residential Tenancy Branch

