



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Wall Financial Corporation  
and [tenant name suppressed to protect privacy]

## DECISION

Dispute Codes: OPR, MNR, MNDC, FF

### Introduction

This hearing concerns the landlord's application for an order of possession / a monetary order as compensation for unpaid rent / compensation for damage or loss under the Act, Regulation or tenancy agreement / and recovery of the filing fee. The landlord's agent attended and gave affirmed testimony. The tenant did not attend.

The landlord served the tenant with the application for dispute resolution and notice of hearing (the "hearing package") by way of registered mail. Evidence submitted by the landlord includes the Canada Post tracking number for the registered mail. The Canada Post website informs that the item was "accepted at the Post Office" on July 31, 2014, that it was subsequently "unclaimed by recipient," and that ultimately it was "successfully returned to the sender."

Pursuant to section 90 of the Act which addresses **When documents are considered to have been received**, as the hearing package was sent by registered mail on July 31, 2014, I find that the tenant is deemed to have received it on August 05, 2014, which is the "5<sup>th</sup> day after it is mailed."

### Issue(s) to be Decided

Whether the landlord is entitled to the above under the Act, Regulation or tenancy agreement.

### Background and Evidence

Pursuant to a written tenancy agreement the tenancy began November 01, 2011. Monthly rent is due and payable in advance on the first day of each month. The current monthly rent is \$850.00. A security deposit of \$425.00 and a pet damage deposit of \$200.00 were both collected near the start of tenancy.

Arising from rent which was unpaid when due on July 01, 2014, the landlord issued a 10 day notice to end tenancy for unpaid rent dated July 02, 2014. The notice was served by way of posting on the unit door on that same date. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenant must vacate the unit is July 15, 2014. Subsequently, the tenant made a payment on September 03, 2014 in the limited amount of \$900.00, and he continues to reside in the unit.

### Analysis

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord's agent, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent dated July 02, 2014. The tenant did not pay the full amount of outstanding rent within 5 days of receiving the notice, and did not apply to dispute the notice. The tenant 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. Accordingly, I find that the landlord has established entitlement to an **order of possession**.

As to compensation, I find that the landlord has established a claim of **\$1,790.00**:

\$850.00: *unpaid rent for July 2014*  
\$20.00: *fee assessed for late payment of rent*  
\$10.00: *parking*

\$850.00: *unpaid rent for August 2014*  
\$20.00: *fee assessed for late payment of rent*  
\$10.00: *parking*

\$850.00: *unpaid rent for September 2014*  
\$20.00: *fee assessed for late payment of rent*  
\$10.00: *parking*

\$50.00: *filing fee*

**Total: \$2,690.00**

**MINUS PAYMENT: \$900.00** (*September 03, 2014*)

**Balance Owed: \$1,790.00**

As previously noted, monthly rent is due and payable in advance on the first day of each month. As this hearing is being held on the first day of the month, October 01, 2014, the landlord's application for compensation reflecting unpaid rent for October 2014 must

be dismissed with leave to reapply. In other words, the tenant has until midnight, October 01, 2014 to pay all rent due for October 2014.

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **two (2) days** after service on the tenant. This order must be served on the tenant. 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.

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **\$1,790.00**. Should it be necessary, this order may be served on the tenant, filed in the 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: October 01, 2014

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Residential Tenancy Branch

