



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, FF

### Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking an order of possession and a monetary order.

The hearing was conducted via teleconference and was attended by the landlord.

The landlord testified the tenant was served with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* via registered mail on November 24, 2014 in accordance with Section 89. The landlord also submits she served the tenant with her evidence by registered mail on November 26, 2014. Section 90 of the *Act* stipulates that documents served by registered mail are deemed to be received on the 5<sup>th</sup> day after it was mailed.

The landlord testified that she has received both packages back as of December 17, 2014 marked by Canada Post as unclaimed. I find that the act of not claiming the registered mail packages to be a deliberate attempt, on the part of the tenant, to avoid service.

Based on the testimony of the landlord, I find that the tenant has been sufficiently served with the documents pursuant to Section 71 of the *Act*.

### Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for unpaid rent; to a monetary order for unpaid rent; and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 46, 55, 67, and 72 of the *Residential Tenancy Act (Act)*.

### Background and Evidence

The landlord submitted the tenancy began as a month to month tenancy beginning on April 15, 2011 for the monthly rent of \$2,000.0 due on the 1<sup>st</sup> of each month and a security deposit of \$1,000.00 was paid.

The landlord provided into evidence the following documents:

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on October 1, 2014 with an effective vacancy date of October 11, 2014 due to \$4,000.00 in unpaid rent; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on November 9, 2014 with an effective vacancy date of November 19, 2014 due to \$4,000.00 in unpaid rent.

The landlord submits the tenant failed to pay the full rent owed for the months of September and October 2014 and that the tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent on the door of the rental unit on October 2, 2014 at 7:20 p.m. and that this service was witnessed by a third party.

The landlord submits the tenant then failed to pay the full rent owed for the months of October and November 2014 and that the tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent on the door of the rental unit on November 9, 2014 at 7:20 p.m. and that this service was witnessed by a third party.

The Notices state the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant did not pay the rent in full or apply to dispute the Notice to End Tenancy within five days. The landlord submits the tenant has failed to pay rent for the months of October, November and December 2014.

### Analysis

I have reviewed all documentary evidence and accept that the tenant has been served with both notices to end tenancy as declared by the landlord. The notice issued on November 9, 2014 is deemed to have been received by the tenant on November 12, 2014 and the effective date of the notice is amended to November 22, 2014 pursuant to Section 53. I accept the evidence before me that the tenant 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 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.

### Conclusion

I find the landlord is entitled to an order of possession effective **two days after service on the tenant**. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

I find the landlord is entitled to monetary compensation pursuant to Section 67 and grant a monetary order in the amount of **\$5,050.0** comprised of \$5,000.0 rent owed; and the \$50.00 fee paid by the landlord for this application.

This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be 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: December 19, 2014

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Residential Tenancy Branch

