



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, MNSD, MNDC, FF

### Introduction

This hearing was convened to deal with the landlord's application for dispute resolution under the Residential Tenancy Act (the "Act"). The landlord applied for an order of possession for the rental unit due to unpaid rent, a monetary order for unpaid rent and money owed or compensation for damage or loss, for authority to retain the tenant's security deposit, and for recovery of the filing fee paid for this application.

The landlord attended; the tenant did not attend the telephone conference call hearing.

The landlord's agent (hereafter "landlord") stated that they served the tenant with their Application for Dispute Resolution and Notice of Hearing by registered mail sent to his home on November 13, 2014. The landlord supplied testimony of the tracking number of the registered mail.

Based upon the submissions of the landlord, I find the tenant was served notice of this hearing in a manner complying with section 89(1) of the Act and the hearing proceeded in the tenant's absence.

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.

### Issue(s) to be Decided

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

### Background and Evidence

The landlord gave evidence that this tenancy began on March 15, 2014, monthly rent is \$1300, due on the 15<sup>th</sup> day of each month, and a security deposit of \$650 was paid by the tenant at the beginning of the tenancy.

The landlord gave evidence that on October 18, 2014, they served the tenant 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 \$2900 as of October 15, 2014. The effective vacancy date listed on the Notice was October 28, 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 21, 2014, and the effective move out date is automatically changed to October 31, 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 rent payments since the Notice was issued, and as of the date of the hearing, the tenant owed \$4200 in total unpaid rent, comprised of a rent deficiency of \$100 for July and \$200 for August 2014, and unpaid rent of \$1300 for September, October, and November, 2014, as claimed in their application.

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

### Analysis

Based on the landlord's undisputed oral and written evidence I find the landlord submitted sufficient evidence to prove that 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 find that the landlord is entitled to a monetary award of \$4250 comprised of outstanding rent of \$4200 through December 15, 2014, and the \$50 filing fee paid by the landlord for this application.

### Conclusion

The landlord's application 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 landlord has been granted a monetary award in the amount of \$4250.

At the landlord's request, I allow the landlord to retain the tenant's security deposit of \$650 in partial satisfaction of their monetary award.

I grant the landlord a final, legally binding monetary order pursuant to section 67 of the Act for the balance due, in the amount of \$3600, which is enclosed with the landlord's Decision.

Should the tenant fail to pay the landlord this amount without delay after being served the order, the order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an order of that Court. The tenant is advised that costs of such enforcement are recoverable from the tenant.

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 11, 2014

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Residential Tenancy Branch

