



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Westcorp Property Management Inc.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MNR

### Introduction

This matter proceeded by way of Direct Request Proceeding, pursuant to section 55(4) of the Residential Tenancy Act (the “Act”), and deals with an Application for Dispute Resolution by the Landlord for:

1. An Order of Possession – Section 55; and
2. A Monetary Order for unpaid rent – Section 67.

The Landlord provided a proof of service indicating that the Landlord served each Tenant with the Notice of Direct Request Proceeding, including the application for dispute resolution, by posting the materials on the door on December 11, 2014. Section 89 of the Act provides that while an application for dispute resolution dealing with a claim for an order of possession may be served by posting on the door, where a monetary claim is being made this service provision is not available. As the Landlord served the application containing a claim for an order of possession in accordance with the Act, I find that I may consider this claim. As the Landlord did not serve the application in relation to the monetary claim in accordance with the Act, I dismiss this claim with leave to reapply.

### Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession?

### Background and Evidence

In the Application made December 11, 2014 the Landlord submits that the Tenant failed to pay rent of \$825.00 and provides the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Proceeding;
- A copy of a residential tenancy agreement signed by the first named Tenant in the application and a third party which indicates a tenancy start date of July 1, 2014 and a monthly rent of \$825.00 due on the first day of the month;
- A copy of a 10 day notice to end tenancy for unpaid rent ( the "Notice") issued on December 2, 2014 with a stated effective vacancy date of December 13, 2014, automatically corrected to December 15, 2014, for \$825.00 in unpaid rent due November 1, 2014; and
- A proof of service of the Notice showing that the Landlord served the Notice to the Tenant on December 2, 2014 by posting the Notice on the door.

### Analysis

Section 55 of the Act provides that a landlord may request an order of possession of a rental unit by making an application for dispute resolution where a notice to end the tenancy has been given by the landlord, the tenant has not disputed the notice by making an application for dispute resolution and the time for making that application has expired. Section 46 of the Act provides that a tenant may, within 5 days after receiving a notice to end tenancy for unpaid rent, pay the overdue rent, in which case the notice has no effect, or dispute the notice by making an application for dispute resolution. If a tenant does not pay the rent or make an application to dispute the notice, the tenant is conclusively presumed to have accepted the end of the tenancy and must vacate the unit by the effective date of the notice. Based on the submissions of the Landlord, I find that the Notice was deemed received by the Tenant on December 5, 2014. I also find that the Tenant has failed to pay the rent and has not made an application to dispute the

Notice within the time required. I find therefore that the Landlord is entitled to an Order of Possession.

Conclusion

**I grant** an Order of Possession to the Landlord effective **two days after service** 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.

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 18, 2014

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Residential Tenancy Branch

