



# 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 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 and 3 of her agents.

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)* personally on January 16, 2015 in accordance with Section 89.

Based on the testimony of the landlord, I find that the tenant has been sufficiently served with the documents pursuant to 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; for all or part of the security deposit and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 38, 46, 55, 67, and 72 of the *Residential Tenancy Act (Act)*.

### Background and Evidence

The landlord submits the tenancy began on September 16, 2014 as a 2 year fixed term tenancy for a monthly rent of \$1,680.00 due on the 1<sup>st</sup> of each month with a security deposit of \$790.00 paid.

The landlord submitted into evidence a copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on January 6, 2015 with an effective vacancy date of January 16, 2015 due to \$2,520.00 in unpaid rent.

The landlord submits the tenant failed to pay the full rent owed for the months of December 2014 and January 2015 and that the tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent personally on January 6, 2014 at 7:13 p.m.

The Notice states 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 also did not pay any rent for the month of February 2015.

The landlord testified that they are unsure if the tenant has vacated the rental unit. They submit that they attended the property on January 27 or 28, 2015 and that most possessions were removed. Only a piece of furniture; some dishes and toys were left behind. The landlords did not attend the property between that date and the date of the hearing to confirm if the tenant had vacated completely.

### Analysis

I have reviewed all 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 January 6, 2015 and the effective date of the notice was January 16, 2015. 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.

Despite the landlord's uncertainty that the tenant has vacated, I find, the landlord could have confirmed prior to February 1, 2015 whether the tenant has completely vacated the unit or not. As the landlord failed to do so, I find the landlord cannot confirm any entitlement to lost revenue for the month of February 2015. I dismiss this portion of their claim.

### 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 in the amount of **\$2,570.00** comprised of \$2,520.00 rent owed and the \$50.00 fee paid by the landlord for this application.

I order the landlord may deduct the security deposit and interest held in the amount of \$790.00 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$1,780.00**.

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: February 03, 2015

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Residential Tenancy Branch

