



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Wayzo Real Estate Mgmt Ltd & Realty Executives Vantage  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes            OPR, MNR, MNSD, FF

### Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking to cancel a notice to end tenancy.

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

The landlord submitted documentary evidence to confirm 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)* by registered mail on March 13, 2015 in accordance with Section 89. Section 90 of the *Act* deems documents served in such a manner to be received on the 5<sup>th</sup> day after they have been mailed.

Based on the evidence 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 *Act*.

### Background and Evidence

The landlord submitted the following documentary evidence:

- A copy of a residential tenancy agreement which was signed by the parties on October 31, 2014 for a month to month tenancy beginning on November 1, 2014 for the monthly rent of \$885.00 due on the 1<sup>st</sup> of each month and a security deposit of \$442.50 was paid. The tenancy agreement stipulates the tenant must pay a fee of \$25.00 for the late payment of any rent; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on January 27, 2015 with an effective vacancy date of February 5, 2015 due to \$915.00 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 by posting it to the rental unit door on January 27, 2015.

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 since the Notice was issued the tenant has made to payments for use and occupancy only – February 5, 2015 the tenant paid \$375.00 and on February 18, 2015 the tenant paid \$505.00. The landlord submits the tenant has not paid any rent towards March or April 2015 rent. The landlord seeks late payment fees for February, March and April 2015.

### Analysis

I have reviewed all documentary 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 30, 2015 and the effective date of the notice is amended to February 9, 2015, pursuant to Section 53 of the *Act*. 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 in the amount of **\$2,815.00** comprised of \$2,690.00 rent owed; \$75.00 late fees 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 \$442.50 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$2,372.50**.

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: April 15, 2015

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Residential Tenancy Branch

