



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 583230 BC LTD. AND ROYAL LEPAGE CITY CENTRE  
and [tenant name suppressed to protect privacy]

## Dispute Codes:

OPR, MNR, MNDC, FF

## Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for an Order of Possession for Unpaid Rent, a monetary Order for unpaid rent, a monetary Order for money owed or compensation for damage or loss, and to recover the fee for filing this Application for Dispute Resolution.

The female Agent for the Landlord stated that on April 02, 2015 the Application for Dispute Resolution and the Notice of Hearing were sent, via registered mail, to the Tenant at the rental unit. The Landlord submitted a Canada Post receipt that corroborates this testimony.

On April 24, 2015 the Landlord submitted 17 pages of evidence to the Residential Tenancy Branch. The female Agent for the Landlord stated that on April 27, 2015 these documents and another copy of the Application for Dispute Resolution and the Notice of Hearing were sent to the Tenant at the rental unit, via registered mail.

The Tenant stated that she received two packages from the Landlord at her home, via registered mail. She stated that the only document she has with her is the Notice of Hearing. She stated that she does not recall what documents were in those packages, although she is certain that the Application for Dispute Resolution was in both packages.

On the basis of the testimony of the female Agent for the Landlord, I accept that the documents submitted to the Residential Tenancy Branch were served to the Tenant. As she was certain those documents were served to the Tenant and the Tenant could not recall what documents were served to her, I find it reasonable to rely on the testimony of the female Agent for the Landlord. I therefore accepted those documents as evidence for these proceedings.

Both parties were represented at the hearing. They were provided with the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions.

## Preliminary Matter

With the consent of both parties, the Application for Dispute Resolution was amended to include a claim for unpaid rent for April and May of 2015.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession for unpaid rent and to a monetary Order for unpaid rent?

Background and Evidence

The Landlord and the Tenant agree that the Tenant moved into the rental unit in December of 2013.

The male Agent for the Landlord stated that a new tenancy agreement was signed on March 17, 2014 when his company became an agent for the Landlord, a copy of which was submitted in evidence. The Tenant stated that she does not recall signing a second tenancy agreement.

The Landlord and the Tenant agree that the Tenant agreed to pay monthly rent of \$850.00 by the first day of each month. The parties agree that no rent has been paid for September of 2014, October of 2014, November of 2014, December of 2014, January of 2015, February of 2015, March of 2015, April of 2015, or May of 2015. The parties agree that \$1.00 in rent is still due for July of 2014.

The female Agent for the Landlord stated that on March 18, 2015 a Ten Day Notice to End Tenancy for Unpaid Rent, which had a declared effective date of April 01, 2015, was sent to the Tenant at the rental unit, via registered mail. She stated that this document was unclaimed and was returned by Canada Post. Canada Post documentation was submitted to corroborate this testimony.

The Tenant stated that she does "not recall" receiving a notification from Canada Post regarding registered mail in March of 2015. She stated that she only recalls receiving two notifications of registered mail from Canada Post, both of which were documents for these proceedings.

The female Agent for the Landlord stated that on March 18, 2015 a copy of the same Ten Day Notice to End Tenancy for Unpaid Rent was also sent to the Tenant's place of employment, via registered mail. Canada Post documentation was submitted to corroborate this testimony. She stated that this document was not returned by Canada Post.

The Tenant stated that a co-worker told her that registered mail had arrived for her at her place of employment however it was lost and was not delivered to her.

The female Agent for the Landlord stated that on March 30, 2015 she personally served the Tenant with a One Month Notice to End Tenancy. The Tenant acknowledged receiving a document from the female Agent for the Landlord on March 30, 2015, although she was not certain it was a One Month Notice to End Tenancy.

The female Agent for the Landlord stated that when she served the One Month Notice to End Tenancy to the Tenant she asked the Tenant if she had received the Ten Day Notice to End Tenancy she had mailed to her and the Tenant acknowledged that she had received it. The Tenant stated that she “does not recall” saying that.

The Witness for the Landlord stated that he was present when the female Agent for the Landlord served documents to the Tenant on March 30, 2015. He stated that he heard the Tenant tell the Agent for the Landlord that she had received the Ten Day Notice to End Tenancy and that she would pay the outstanding rent “right away”.

### Analysis

On the basis of the undisputed evidence, I find that the Tenant entered into a tenancy agreement that required the Tenant to pay monthly rent of \$850.00 by the first day of each month. Section 26(1) of the *Residential Tenancy Act (Act)* requires tenants to pay rent to their landlord when it is due.

On the basis of the undisputed evidence, I find that the Tenant has not paid rent for September of 2014, October of 2014, November of 2014, December of 2014, January of 2015, February of 2015, March of 2015, April of 2015, or May of 2015, and that she still owes rent of \$1.00 from July of 2014. As the Tenant continues to reside in the rental unit, I find that she must pay \$7,651.00 in rent to the Landlord, which includes rent for May of 2015.

Canada Post does, on occasion, make mistakes and I find it possible that notification of the registered mail that was sent to the rental unit on March 18, 2015 was not delivered to the rental unit. I find it at least equally possible that the Tenant simply neglected to pick up the mail that was sent to the rental unit.

When all of the evidence regarding service of the Ten Day Notice to End Tenancy for Unpaid Rent is considered, I find, on the balance of probabilities, that the Tenant received the Ten Day Notice to End Tenancy that was sent to her place of employment, by registered mail, on March 18, 2015. I therefore find that this Notice to End Tenancy has been sufficiently served to the Tenant, pursuant to section 71(2)(c) of the *Act*.

While it is possible that registered mail can be misplaced by a business, I find that businesses are typically particularly careful with mail that is delivered by registered mail. I find the Tenant’s testimony that a co-worker “told her” testimony provided by the Tenant in regards to service of the Ten Day Notice to End Tenancy lacks credibility. It

seems unlikely that a co-worker would simply mention the mail without actually delivering it.

In determining that the Tenant received the Ten Day Notice to End Tenancy that was mailed to her place of employment, I was also heavily influenced by the testimony of the female Agent for the Landlord and the Witness for the Landlord, both of whom stated that on March 30, 2015 the Tenant stated that she received the Ten Day Notice to End Tenancy that had been mailed to her. I find the testimony of two people to be more compelling than the Tenant's testimony that she does "not recall" acknowledging receipt of the Notice.

I note that the Tenant also did not recall signing a new tenancy agreement on March 17, 2014, although the tenancy agreement submitted in evidence corroborates the Landlord's submission that one was signed on that date. I therefore find it possible that the Tenant did receive notification of the registered mail that was sent to the rental unit on March 18, 2015 and that she did tell the female Agent for the Landlord that she had received the Ten Day Notice to End Tenancy, and that she now no longer recalls those events.

For me to accept the Tenant's submissions, I would have to conclude that Canada Post failed to deliver notification of the registered mail, that a business neglected to properly care for registered mail, that a co-worker happened to mention that registered mail for the Tenant was received by the Tenant's place of employment; and that two people are being dishonest, neither of whom has as much invested in the outcome as the Tenant. I find it far more likely that the Tenant is not acknowledging receipt of the Ten Day Notice to End Tenancy in an attempt to avoid the effects of the Notice to End Tenancy.

Section 46(1) of the *Act* entitles landlords to end a tenancy if rent is not paid when it is due by providing proper notice to end the tenancy. As rent has not been paid when it was due and I have concluded that the Tenant received the Ten Day Notice to End Tenancy for Unpaid Rent that was mailed to her place of employment, I find that the Landlord has grounds to end this tenancy, pursuant to section 46 of the *Act*. I therefore grant the Landlord an Order of Possession.

I find that the Landlord's application has merit and that the Landlord is entitled to recover the cost of filing this Application for Dispute Resolution.

### Conclusion

The Landlord has established a monetary claim, in the amount of \$7,701.00, which is comprised of \$7,651.00 in unpaid rent and \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution. I grant the Landlord a monetary Order for \$7,701.00. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

As the Landlord has been granted a monetary Order for rent for the period ending May 31, 2015, I grant the Landlord an Order of Possession that is effective at 1:00 p.m. on May 31, 2015. This Order may be served on the Tenant, filed with 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: May 13, 2015

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Residential Tenancy Branch

