



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Dispute Codes:

OPR

### Introduction

On September 03, 2015 the Landlord filed an Application for Dispute Resolution in which the Landlord applied for an Order of Possession for Unpaid Rent.

The Agent for the Landlord stated that on October 02, 2015 he personally served the Application for Dispute Resolution and the Notice of Hearing to the Tenant. The male Landlord stated that there was a delay in serving these documents because he was away for a period of time after September 03, 2015; the Agent for the Landlord was away for a period of time after September 03, 2015; and that several attempts were made to serve the Tenant, in person, but he could not be located until October 02, 2015.

The Tenant stated that he received the Application for Dispute Resolution and the Notice of Hearing on October 02, 2015. He stated that he has not had adequate time to prepare for these proceedings; he wants more time to research his rights; and he does not yet know what evidence he will present once he has had the opportunity to research the issues. He requested an adjournment for time to respond to the Landlord's Application for Dispute Resolution.

The Landlord objected to an adjournment, as he feels the Tenant has had adequate time to respond to the Application for Dispute Resolution.

Rule 3.1 of the Residential Tenancy Branch Rules of Procedure stipulate that an applicant must, within 3 days of the hearing package being made available by the Residential Tenancy Branch, serve each respondent with copies the Application for Dispute Resolution, the notice of dispute resolution proceeding letter provided to the applicant by the Residential Tenancy Branch, and the dispute resolution proceeding information package provided by the Residential Tenancy Branch. On the basis of the undisputed evidence, I find that these documents were not served until almost one month after these documents were made available to the Landlord.

I find that being unable to locate a respondent for the purposes of serving him/her in person is not sufficient reason to fail to comply with rule 3.1 of the Residential Tenancy

Branch Rules of Procedure. Section 89 of the *Residential Tenancy Act (Act)* authorizes other methods of service, such as sending the documents by registered mail and/or posting them on the Tenant's door, and I can find no reason why the documents could not have been served to the Tenant by one of these methods.

Rule 6.4 of the Residential Tenancy Branch Rules of Procedure requires me to consider the following criteria when considering a party's request for an adjournment of the dispute resolution proceeding:

- a) the oral or written submissions of the parties;
- b) whether the purpose for which the adjournment is sought will contribute to the resolution of the matter in accordance with the objectives set out in Rule 1;
- c) whether the adjournment is required to provide a fair opportunity for a party to be heard, including whether a party had sufficient notice of the dispute resolution proceeding;
- d) the degree to which the need for the adjournment arises out of the intentional actions or neglect of the party seeking the adjournment; and
- e) the possible prejudice to each party.

The parties were advised that the hearing would be adjourned and would be reconvened in a few weeks. This decision was based on my conclusion that the need for the adjournment is directly related to the Landlord's failure to comply with rule 3.1 of the Residential Tenancy Branch Rules of Procedure; that the adjournment is necessary to provide the Tenant with a reasonable opportunity to prepare a response to the Landlord's Application for Dispute Resolution; and that the delay will only be a few weeks so does not unduly prejudice either party.

#### Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession?

#### Background and Evidence

After being advised that the hearing would be adjourned, the Landlord and the Tenant agreed to settle this dispute under the following terms:

- the tenancy will end, by mutual consent, on October 31, 2015;
- the tenant will pay \$300.00 in rent for October by October 17, 2015; and
- the tenant will pay \$450.00 in rent for October by November 15, 2015.

The Tenant stated that he did not wish to include any unpaid rent that has accrued prior to this hearing in the settlement agreement. The Landlord was advised that he has the right to file another Application for Dispute Resolution seeking compensation for unpaid rent for any period prior to September 30, 2015.

### Analysis

The parties have settled the issue in dispute at these proceedings.

### Conclusion

On the basis of the settlement agreement, I grant the Landlord an Order of Possession that is effective at 1:00 p.m. on October 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.

On the basis of the settlement agreement, I grant the Landlord a monetary Order for \$750.00. This Order may be served on the Tenant on, or after, October 18, 2015 if the Tenant has not paid \$300.00 to the Landlord by October 17, 2015. This Order may be served on the Tenant on, or after, November 16, 2015 if the Tenant has not paid \$450.00 to the Landlord by November 15, 2015. Once it is served on the Tenant the monetary Order may be filed with the Province of British Columbia Small Claims Court 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: October 08, 2015

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Residential Tenancy Branch

