



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 696951 BC Ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute codes      OP MNR MNSD FF

### Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order allowing retention of the security deposit in partial satisfaction of the claim. The hearing was conducted by conference call. Both parties were in attendance and had an opportunity to be heard.

### Issues

Is the landlord entitled to the requested orders?

### Background and Evidence

This tenancy began on December 1, 2011. The rent is \$750.00 due in advance on the first day of each month. The tenant paid a security deposit of \$375.00 and a pet damage deposit of \$375.00 at the start of the tenancy. According to the landlord, the rent is drastically behind. The landlord testified that as of April 1, 2015 the tenant was arrears in rent payments by \$3,380.00 and has since then paid no rent for May, June, July, August, September and October. This brings the total arrears to \$7,880.00 as of the date of the hearing. The landlord testified that the tenant has been served with a 10 day Notice to End Tenancy for each of the months of April, May, June, July and August. The landlord testified that these notices were posted on the door of the rental unit and served on the tenant personally. The tenant did not dispute any of the Notices and no rent has been paid for any of the above months.

At the hearing, the tenant stated that she did not dispute the Notices because she was never served with them. The tenant did not deny however that the rent has not been paid for many months. The reason for this according to the tenant is that she moved from Unit C32 to Unit B10 with another resident of the building who apparently used to be the building manager. The tenant claims that the rent was not paid because the former building manager is in a labour dispute with the landlord. As it was explained to me, the former building manager claims that his rent was supposed to be included in his

pay and that therefore he was not obliged to pay rent. However, at the time of the hearing, the decision of the labour case had not yet been made. The former building manager also stated at the hearing that the tenant had in fact been served with “seven” 10 Day Notices in August. It was not clear to me why the tenant said she had not received any Notices while her friend – the former manager said she received seven of them.

In response to the tenant’s testimony and that of the former building manager, the landlord argued that the labour relations matter had nothing to do with the outstanding rent and that the tenant had most definitely been served with the Notices to End Tenancy.

I note that the tenant did not submit any documentary evidence in support of her testimony.

### Analysis

Section 46 of the Act requires that upon receipt of a Notice to End Tenancy for non-payment of rent the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If, as in the present case, the tenant does neither of these two things, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice.

I realize that the tenant claims to have never received the Notice but this claim is in direct conflict with her friend/roommate’s testimony that she received “seven” Notices in August. As well, I found the landlord’s testimony on this issue to be credible and certainly reasonable given the large amount of outstanding rent.

I also agree with the landlord that the fact that the former building manager is in a labour dispute with the landlord does not alter the fact that the tenant was liable to pay the rent when it was due. Moreover, as I have already stated above, the fact that the tenant neither paid the outstanding rent nor disputed the Notices within five days of receipt thereof results in the conclusive presumption that the tenant has accepted that the tenancy came to an end on the effective date of the notice, namely, May 4, 2015.

### Conclusion

**Order of Possession** - Based on the above background, evidence and analysis I find that the landlord is entitled to an order of possession effective two days after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

***Monetary Order and Security Deposit*** - I find that the landlord has established a total monetary claim of \$7,880.00 in outstanding rent as follows:

Outstanding rent to April	\$3,380.00
Unpaid rent May	\$750.00
Unpaid rent June	\$750.00
Unpaid rent July	\$750.00
Unpaid rent August	\$750.00
Unpaid rent September	\$750.00
Unpaid rent October	\$750.00
<b>TOTAL</b>	<b>\$7,880.00</b>

I order that the landlord retain the security and pet damage deposits and interest (\$0.00) of \$750.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$7,130.00. This order may be filed in the 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: November 17, 2015

---

Residential Tenancy Branch

