



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Baltic Title Ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes: OPR, MNR

### Introduction

In response to the landlord's direct request application for an order of possession for unpaid rent / and a monetary order as compensation for unpaid rent, an *ex parte* proceeding took place on December 07, 2015. For reasons set out in the Interim Decision of that same date, the Adjudicator ordered, in part, as follows:

I order that the direct request proceeding be reconvened in accordance with section 74 of the Act. I find that a participatory hearing to be conducted by an arbitrator appointed under the Act is required in order to determine the details of the landlord's application.

The Residential Tenancy Branch mailed Notices of Reconvened Hearing to the landlord for service on the tenant, and both parties were instructed that they "must serve the other and the Residential Tenancy Branch with any evidence that they intend to rely upon at the new hearing." The hearing was scheduled to begin at 9:30 a.m. on January 18, 2016, by teleconference call. Both parties attended and gave affirmed testimony.

### Issue(s) to be Decided

Whether the landlord is entitled to an order of possession or a monetary order.

### Background and Evidence

Pursuant to a written tenancy agreement the term of tenancy is from August 01, 2015 to July 31, 2016. Monthly rent of \$1,300.00 is due in advance on the first day of each month, and a security deposit of \$650.00 was collected. Arising from rent which was unpaid when due on November 01, 2015, the landlord issued a 10 day notice to end tenancy dated November 06, 2015. The notice was served by leaving a copy in the tenant's mail box / slot. A copy of the notice was submitted in evidence. The date shown by when the tenant must vacate the unit is November 16, 2015. Subsequently,

the tenant made late payment of rent in full sometime towards the end of November 2015. Thereafter, the tenant has also made late payment of rent for both December 2015 and January 2016. During the hearing the landlord testified that the tenant has been issued receipts with a notation to the effect of “for use and occupancy only.” The landlord also testified that he seeks an order of possession effective January 31, 2016.

### Analysis

Based on the documentary evidence and testimony, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent dated November 06, 2015. As the notice was served by delivery to the tenant's mail box / slot, pursuant to section 90 of the Act I find that the tenant is deemed to have received the notice 3 days later on November 09, 2015. The tenant did not pay the outstanding rent within 5 days of receiving the notice, and did not apply to dispute the notice. The tenant is therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the notice. Accordingly, I find that the landlord has established entitlement to an **order of possession**. As all rent due is currently paid in full, the application for a monetary order as compensation for unpaid rent is dismissed.

### Conclusion

I hereby issue an **order of possession** in favour of the landlord effective **January 31, 2016**. This order must be served on the tenant. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

The application for a monetary order as compensation for unpaid rent is dismissed.

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: January 18, 2016

---

Residential Tenancy Branch

