



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding BELMONT PROPERTIES  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MNR

### Introduction

This matter was conducted in response to a Landlord's Application for Direct Request requesting an Order of Possession and a Monetary Order for unpaid rent, pursuant to Section 55(4) of the *Residential Tenancy Act* (the "Act").

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding document which declares that on January 14, 2016 the Landlord personally served the Tenant with the document for these proceedings. This method of service was confirmed by a witness who signed the Proof of Service of the Notice of Direct Request Proceeding document. Therefore, I accept that the Landlord effected service of the required documents pursuant to Section 89(1) (a) of the Act.

### Issue(s) to be Decided

- Is the Landlord entitled to an Order of Possession for unpaid rent?
- Has the Landlord established a monetary claim for unpaid rent?

### Background and Evidence

The Landlord submitted the following evidentiary material:

- A copy of a tenancy agreement signed by the Landlord and the Tenant on August 30, 2015 for a tenancy commencing on September 1, 2015. The tenancy agreement establishes rent is payable by the Tenant in the amount of \$950.00 in advance on or before the first calendar day of the month;
- A copy of a two page 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice") issued on January 2, 2016 with an effective vacancy date of January 12, 2016 for \$1,179.97 in unpaid rent due on January 1, 2016;
- A copy of the Proof of Service of the Notice which shows the Landlord's agent served the Notice to the Tenant on January 2, 2016 by attaching it to the Tenant's door with a witness who signed to verify this method of service; and

- The Landlord's Application for Direct Request and the Monetary Order Worksheet claiming partial unpaid rent for December 2015 in the amount of \$439.98, and partial unpaid rent for January 2016 in the amount of \$739.99, for a total of \$1,179.97.

### Analysis

I have reviewed the evidence and I accept the Tenant was served with the Notice, which complied with the Act, on January 2, 2016 by attaching it to the Tenant's door with a witness. Section 90(c) of the Act states that documents served this way are deemed to have been received three days after being attached to the door. Therefore, I find the Tenant was deemed to be served the Notice on January 5, 2016 and the effective date of vacancy on the Notice is corrected to January 15, 2016 pursuant to Section 53 of the Act.

I accept the evidence before me that the Tenant failed to dispute the Notice or pay the outstanding rent on the Notice within the five days provided under Section 46(4) of the Act. Therefore, I find that the Tenant is conclusively presumed under Section 46(5) of the Act to have accepted the tenancy ended on the corrected vacancy date of the Notice. As a result, the Landlord is entitled to an Order of Possession and a Monetary Order.

### Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favor of the Landlord effective **two days after service on the Tenant** as the corrected vacancy date on the Notice has now passed. This order may then be filed and enforced in the Supreme Court of British Columbia as an order of that court.

I further grant a Monetary Order in the amount of **\$1,179.97** in favor of the Landlord pursuant to Section 67 of the Act. This order must be served on the Tenant and may be filed in the Provincial Court (Small Claims) 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: January 27, 2016

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Residential Tenancy Branch

