



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Jia Sheng Enterprises Inc  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MNR

### Introduction

This hearing dealt with the landlord's Application for Dispute Resolution by Direct Request seeking an order of possession and a monetary order.

The Application was originally adjudicated through the *ex parte* process based on written submissions by the landlord. The adjudicator adjourned the matter to a participatory hearing because the name of the landlord on the Application and the tenancy agreement submitted as evidence were different and no explanation had been provided by the landlord for this discrepancy.

The landlord provided documentary evidence to confirm the residential property was transferred to the current owner effective March 31, 2015.

The hearing was conducted via teleconference and was attended by the landlord's agent.

The landlord submitted an Amendment to an Application for Dispute Resolution seeking to amend the dollar amount of his claim for unpaid rent in the amount of \$1,360.00, which included unpaid rent for January and February 2016. I accept this amendment.

The landlord submitted documentary evidence to confirm each tenant was served with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* by registered mail on January 1, 2016 in accordance with Section 89. Section 90 of the *Act* deems documents served in such a manner to be received on the 5<sup>th</sup> day after they have been mailed.

Based on the evidence of the landlord, I find that each tenant has been sufficiently served with the documents pursuant to the *Act*.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for unpaid rent and to a monetary order for unpaid rent, pursuant to Sections 46, 55, 67, and 72 of the *Act*.

### Background and Evidence

The landlord submitted the following relevant documentary evidence:

- A copy of a residential tenancy agreement which was signed by the parties on January 30, 2015 for a month to month tenancy beginning on February 1, 2015 for the monthly rent of \$980.00 due on the 1<sup>st</sup> of each month and a security deposit of \$490.00 was paid; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on November 9, 2015 with an effective vacancy date of November 19, 2015 due to \$180.00 in unpaid rent.

Documentary evidence filed by the landlord indicates the tenants failed to pay the full rent owed for the month of October 2015 and that the tenants were served the 10 Day Notice to End Tenancy for Unpaid Rent personally on November 9, 2015 at 8:30 p.m. and that this service was acknowledged in writing by the tenant SH.

The Notice states the tenants had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenants did not pay the rent in full or apply to dispute the Notice to End Tenancy within five days. The landlord testified that the tenants paid this outstanding amount on November 25, 2015 or 16 days after the 10 Day Notice was received.

The landlord testified that the tenants have paid for use and occupancy up to the end of February 2016. As such, the landlord no longer seeks a monetary order for any outstanding rent.

### Analysis

I have reviewed all documentary evidence and accept that the tenants have been served with notice to end tenancy as declared by the landlord. The notice was received by the tenants on November 9, 2015 and the effective date of the notice was November 19, 2015. I accept the evidence before me that the tenants failed to pay the rent owed in full within the 5 days granted under Section 46(4) of the *Act*.

Based on the foregoing, I find the tenants are conclusively presumed under Section 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the Notice.

### Conclusion

I find the landlord is entitled to an order of possession effective **two days after service on the tenants**. This order must be served on the tenants. If the tenants fail to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be 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: February 04, 2016

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Residential Tenancy Branch

