



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, FF

### Introduction

This hearing dealt with the landlord's application for dispute resolution under the Residential Tenancy Act (the "Act") for an order of possession for the rental unit due to unpaid rent, a monetary order for unpaid rent and to recover the filing fee.

The tenant did not appear at the telephone conference call hearing. The landlord appeared and gave affirmed testimony.

The landlord testified that the tenant was served with the Application for Dispute Resolution and Notice of Hearing (the Hearing Package) by registered mail on September 13, 2012. The landlord supplied the tracking number and receipt for the registered mail.

I find the tenant was served in a manner complying with section 89 of the Residential Tenancy Act (the "Act") and the hearing proceeded in the tenant's absence.

The landlord was provided the opportunity to present his evidence orally and to refer to relevant documentary evidence submitted prior to the hearing.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure; however, I refer to only the relevant evidence regarding the facts and issues in this decision.

### Issue(s) to be Decided

Is the landlord entitled to an order of possession for the rental unit due to unpaid rent, a monetary order and to recover the filing fee?

### Background and Evidence

The landlord said that this tenancy began in December, 2011, monthly rent began at \$1250.00, is currently \$1200.00, and a security deposit of \$625.00 was paid by the tenant at the beginning of the tenancy.

The landlord gave evidence that on August 28, 2012, the tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice"), by registered mail listing unpaid rent of \$4000.00 as of June 1, 2012. Section 90 of the Act states that documents served in this manner are deemed delivered five days later, or in this case, the tenant was deemed served on September 2, 2012.

The effective vacancy date listed on the Notice was left blank. Section 53 of the Act allows the effective date of a Notice to be changed to the earliest date upon which the Notice complies with the Act; therefore, I find that the Notice effective date is changed to September 12, 2012, 10 days after the tenant was deemed served with the Notice.

The Notice informed the tenant that the Notice would be cancelled if the rent was paid within five days. The Notice also explained the tenant had five days to dispute the Notice.

I have no evidence before me that the tenant applied to dispute the Notice.

The landlord stated that the tenant made a deposit into the landlord's bank account of \$600.00 on August 31 and \$600.00 in September, 2012, paid nothing in October 2012 and as of the date of the hearing, the tenant owed \$3600.00 in unpaid rent.

### Analysis

Based on the oral and written evidence and on a balance of probabilities, I find as follows:

I find the tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent, did not pay the outstanding rent or apply to dispute the Notice within five days of service and 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.

Conclusion

I therefore find that the landlord is entitled to an order of possession for the rental unit effective two days after service of the order upon the tenant.

I grant the landlord a final, legally binding order of possession, which is enclosed with the landlord's Decision. Should the tenant fail to vacate the rental unit pursuant to the terms of the order, this order may be filed in the Supreme Court of British Columbia for enforcement as an order of that Court.

I also find that the landlord has established a total monetary claim of \$3650.00 comprised of outstanding rent of \$3600.00 through October, 2012, and the \$50.00 filing fee paid by the landlord for this application.

I grant the landlord a final, legally binding monetary order pursuant to section 67 of the Act for the amount of \$3650.00, which I have enclosed with the landlord's Decision.

Should the tenant fail to pay the landlord this amount without delay, the order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement 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* and is mailed to both the applicant and the respondent.

Dated: October 16, 2012.

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Residential Tenancy Branch