



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Wall Financial Corporation  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes: OPR, MNR, MNDC, FF / CNR, MNDC, OLC, ERP, RR

### Introduction

This hearing concerns 2 applications: i) by the landlord for an order of possession / a monetary order as compensation for unpaid rent / compensation for damage or loss under the Act, Regulation or tenancy agreement / and recovery of the filing fee; and ii) by the tenant for cancellation of a notice to end tenancy for unpaid rent / a monetary order as compensation for damage or loss under the Act, Regulation or tenancy agreement / an order instructing the landlord to comply with the Act, Regulation or tenancy agreement / an order instructing the landlord to make emergency repairs for health or safety reasons / and permission to reduce rent for repairs, services or facilities agreed upon but not provided.

Agents representing the landlord attended and gave affirmed testimony. The tenant did not appear.

The landlord's agents testified that the application for dispute resolution and notice of hearing (the "hearing package") was served by way of registered mail. Evidence submitted by the landlord includes the Canada Post tracking number for the registered mail, and the Canada Post website informs that the item was "successfully delivered." The landlord's agents also confirmed their receipt of the tenant's hearing package.

### Issue(s) to be Decided

Whether either party is entitled to any of the above under the Act, Regulation or tenancy agreement.

### Background and Evidence

Pursuant to a written tenancy agreement, the fixed term of tenancy is from September 1, 2012 to August 31, 2013. Monthly rent of \$710.00 is due and payable in advance on the first day of each month, and a security deposit of \$355.00 was collected.

Arising from rent which was unpaid when due on February 1, 2013, the landlord issued a 10 day notice to end tenancy for unpaid rent dated February 12, 2013. The notice was served by way of posting on the tenant's door on that same date. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenant must vacate the unit is February 22, 2013. Subsequently, the tenant has made no further payment toward rent and she continues to reside in the unit.

### Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: [www.rto.gov.bc.ca](http://www.rto.gov.bc.ca)

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord's agents, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent dated February 12, 2013. The tenant did not pay the outstanding rent within 5 days of receiving the notice. Further, the tenant's application to have the notice set aside was filed on March 1, 2013, which I find is also outside the 5 day period available. 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. I find, therefore, that the landlord has established entitlement to an **order of possession**.

As for the **monetary order**, I find that the landlord has established a claim of **\$1,529.04**:

\$19.04: *outstanding balance of fee assessed for late payment of January's rent*  
\$710.00: *unpaid rent for February*  
\$20.00: *fee assessed for late payment of February's rent*  
\$710.00: *unpaid rent for March*  
\$20.00: *fee assessed for late payment of March's rent*  
\$50.00: *filing fee*

I find that the landlord's application for a monetary order reflecting compensation for unpaid rent for April, in addition to the fee assessed for late payment of that rent is premature. Accordingly, these particular aspects of the application are hereby dismissed with leave to reapply.

### Conclusion

In the absence of any appearance by the tenant, despite scheduling of the hearing in response to applications by both parties, the tenant's application is hereby dismissed in its entirety.

I hereby issue an **order of possession** in favour of the landlord effective not later than **two (2) days** after service on the tenant. 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.

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **\$1,529.04**. This order may be served on the tenant, 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: March 20, 2013

---

Residential Tenancy Branch

