



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, FF

### Introduction

This matter dealt with an application by the Landlord for an Order of Possession and a Monetary Order for unpaid rent and utilities and to recover the filing fee for this proceeding.

The Landlord said he served the Tenant with the Application and Notice of Hearing (the "hearing package") by personal delivery on March 26, 2013. Based on the evidence of the Landlord, I find that the Tenant was served with the Landlord's hearing package as required by s. 89 of the Act and the hearing proceeded with both parties in attendance.

### Issues(s) to be Decided

1. Does the Landlord have grounds to end the tenancy?
2. Are there rent arrears and if so, how much?
3. Is the Landlord entitled to compensation for unpaid rent and if so how much?

### Background and Evidence

This tenancy started on May 1, 2010 as a month to month tenancy. Rent is \$720.00 per month payable in advance of the 1<sup>st</sup> day of each month. The Tenant said he did not pay a security deposit, but his mother paid a security deposit prior to him taking over the tenancy. The Landlord said the Tenant's mother paid a security deposit of \$75.00 in 1988.

The Landlord said they issued a 10 Day Notice to End Tenancy dated March 8, 2013 for \$721.00 and the notice had an effective vacancy date of March 21, 2013 on it.

The Landlord said that the Tenant had unpaid rent of \$721.00 for March, 2013 and \$720.00 of unpaid rent for April, 2013, but the Tenant has paid all the unpaid rent and extra charges so the Landlord is withdrawing their monetary claim. The Landlord continued to say the payments were made April 4, 2013 of \$720.00, April 22, 2013 of \$160.00 and April 23, 2013 in the amount of \$636.00. As the payments were late and after the effective vacancy date on the 10 Day Notice to End Tenancy the Landlord said they are still requesting an Order of Possession as they want to end the tenancy. The Landlord requested an effective vacancy date of May 15, 2013 to end the tenancy if they are successful with their application.

The Tenant said he has had some very difficult financial issues and he now believes his financial position has improved so he requested the Landlord to continue the tenancy. The Tenant continued to say he would sign an agreement to be on time with his rent and he is willing to pay the rent bi-monthly if that helps. The Tenant said he does not want to move.

The Landlord said his managers at the company have instructed him to end the tenancy if possible as the Tenant has agreed in the past to pay his rent on time and it has not happened, so the company does not want to continue the tenancy with the Tenant.

Both the Landlord and the Tenant said their relationship has been a good one.

### Analysis

Section 46 of the Act states that within 5 days of receiving A Notice to End Tenancy for Unpaid Rent or Utilities, a Tenant must either pay the overdue rent or apply for dispute resolution.

The Tenant was served the Notice to End Tenancy by posting it on the Tenant's door on March 8, 2013. Section 90 of the Act states that a Notice that has been posted on the door is deemed to be served 3 days after it is posted or in this situation the Notice is deemed to be served on the Tenant on March 11, 2013. Consequently, the Tenant would have had to pay the amount stated on the Notice or apply to dispute that amount no later than March 16, 2013. The Tenant did not pay the unpaid rent by March 16, 2013 and did not apply for dispute resolution; therefore the Notice to End Tenancy is valid.

I find that the Tenant has not paid the overdue rent when it was due and has not applied for dispute resolution. Consequently, I find pursuant to s. 55 (2)(b) of the Act the Landlord is entitled to an Order of Possession with an effective vacancy date of May 15, 2013 at 1:00 p. m. The Order of Possession must be served on the Tenant in one of the ways stated in the Act.

Conclusion

An Order of Possession effective at 1:00 p. m. May 15, 2013 has been issued to the Landlord. A copy of the Order must be served on the Tenant: the Order of Possession may be enforced in the Supreme Court of British Columbia.

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: April 23, 2013

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Residential Tenancy Branch

