



# Dispute Resolution Services

Page: 1

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 seeking an order of possession and a monetary order.

The hearing was conducted via teleconference and was attended by the landlord and the tenant.

During the hearing both parties began to argue with themselves and interject when either one was providing testimony. The tenant attempted to raise several other unrelated issues during her testimony and despite repeated attempts by me to bring her back to the matters at hand she began verbally abusive and I advised her I would be ending her involvement in the call. The tenant hung up.

### Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for unpaid rent; to a monetary order for unpaid rent; and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 46, 55, 67, and 72 of the *Residential Tenancy Act (Act)*.

### Background and Evidence

The landlord testified the tenancy began on April 1, 2013 as a month to month tenancy for the monthly rent of \$725.00 due on the 1<sup>st</sup> of each month and a security deposit of \$360.00 was paid

The landlord provided into evidence a copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on April 5, 2013 with an effective vacancy date of April 15, 2013 due to \$725.00 in unpaid rent.

The landlord testified the tenant failed to pay the full rent owed for the month of April and that the tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent personally on April 5, 2013. The tenant submits she received the Notice on April 6, 2013.

The Notice states the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The parties agree the tenant paid rent to the landlord on April 12, 2013 and has not yet paid any rent for May 2013. The tenant did not apply to dispute the Notice to End Tenancy within five days. The parties also agreed the tenant paid the landlord his filing fee.

### Analysis

I have reviewed all documentary evidence and testimony and accept that the tenant has been served with notice to end tenancy as declared by the landlord. The notice was received by the tenant on April 6, 2013 and the effective date of the notice is amended to April 16, 2013. I accept the evidence before me that the tenant 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 tenant is 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 tenant**. This order must be served on the tenant. If the tenant fails 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.

I find the landlord is entitled to monetary compensation pursuant to Section 67 and grant a monetary order in the amount of **\$725.00** comprised of rent owed for May 2013. As the parties agree the tenant has already paid the landlord for his filing fee, I dismiss this portion of the landlord's Application.

This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order in the Provincial Court (Small Claims) 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: May 08, 2013

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Residential Tenancy Branch

