



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding SRB Holdings  
and [tenant name suppressed to protect privacy]

## **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"). The landlord applied 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 landlord's agents and the tenant attended the hearing, the hearing process was explained and they were given an opportunity to ask questions about the hearing process.

The evidence was discussed and no party raised any issue regarding service of the evidence.

Thereafter all parties were provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, respond each to the other, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

*Preliminary matter*-During the hearing, the landlord referenced the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, which he stated was dated February 2, 2014; however, although the landlord thought this document had been submitted into evidence, I did not have a copy. The landlord did supply two other 10 Day Notices.

Thereafter, the landlord testified concerning the contents of the most current 10 Day Notice, and, although the tenant disputed having received it, she ultimately agreed that it was delivered to her.

I allowed the hearing to continue, with the understanding that the landlord would telefax a copy of the February 10 Day Notice, as there was no dispute as to dates and contents. The landlord did in fact send in the February 10 Day Notice, the same day of the hearing.

Issue(s) to be Decided

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

Background and Evidence

The landlord provided undisputed evidence that this tenancy began on February 1, 2011, monthly rent is \$800, and a security deposit of \$380 was paid by the tenant at the beginning of the tenancy.

The landlord provided evidence that on February 2, 2014, the tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice") by landlord's agent, AM, by leaving it with the tenant, listing unpaid rent of \$40 as of February 1, 2014. The effective vacancy date listed on the Notice was February 12, 2014.

The Notice informed the tenant that the Notice would be cancelled if the rent was paid within five days. The Notice also explained that alternatively the tenant had five days to dispute the Notice by making an application for dispute resolution.

The landlord stated that the tenant, on February 11, 2014, presented a cheque for the amount of rent deficiency listed on the Notice, \$40, but that the cheque was post dated and not made payable until February 20, 2014.

The landlord also stated that tenant's rent for March was paid on February 26, 2014, but was deficient in the amount of \$40, which has now been paid.

In response, the tenant submitted that she is receiving rent by income assistance, and until March 2014, the rent given on behalf of the tenant was \$760; however, as of April 2014, she is receiving the full amount of \$800, going directly to the landlord.

The tenant submitted that she did struggle to pay the remaining \$40, due to being a single mother with a small child, and that she did the best she could to pay the \$40 as soon as possible.

There is no evidence that the tenant applied to dispute the Notice.

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 file an application for dispute resolution in dispute of the Notice, and although the tenant did pay the rent deficiency, the payment was not within five days of receiving the Notice.

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 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.

As the tenant has paid the \$40 listed on the 10 Day Notice, I have not awarded the landlord a monetary order for unpaid rent; however I allow the landlord recovery of their filing fee of \$50.

### Conclusion

The landlord's application has been granted.

I grant the landlord a final, legally binding order of possession for the rental unit, which is enclosed with the landlord's Decision. Should the tenant fail to vacate the rental unit pursuant to the terms of the order after being served, the order may be filed in the Supreme Court of British Columbia for enforcement as an order of that Court. The tenant is advised that costs of such enforcement are recoverable from the tenant.

The landlord has been granted a monetary award in the amount of \$50 for recovery of the filing fee.

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 being mailed to both the applicant and the respondent.

Dated: April 10, 2014

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Residential Tenancy Branch

