



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPR MNR MNSD MNDC FF

### Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim.

The landlord participated in the teleconference hearing, but the tenant did not call into the hearing. The landlord submitted evidence that he served the tenant with the application for dispute resolution and notice of hearing by registered mail sent on September 15, 2014. Section 90 of the Act states that a document is deemed to have been served five days after mailing. I found that the tenant was deemed served with notice of the hearing on September 19, 2014, and I proceeded with the hearing in the absence of the tenant.

### Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order?

### Background and Evidence

The tenancy began on December 1, 2013. Rent in the amount of \$1500 is payable in advance on the first day of each month. At the outset of the tenancy, the tenant paid the landlord a security deposit of \$750 and a pet deposit of \$300. The tenant failed to pay rent in the month of July 2014 and on July 10, 2014 the landlord served the tenant with a notice to end tenancy for non-payment of rent. The tenant further failed to pay rent in the months of August, September, October and November 2014, with the exception of one payment of \$1200 made September 22, 2014.

The Landlord's evidence included the following:

- a copy of a residential tenancy agreement, signed by the tenant and the landlord on December 1, 2013, indicating a monthly rent of \$1500 due on the first of each month and confirming the tenant's payment of a \$750 security deposit and a \$300 pet deposit;
- a copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, issued on July 10, 2014, with an effective vacancy date of July 19, 2014, for failure to pay rent in the amount of \$3,000 that was due on July 1, 2014;
- testimony that the tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent by attaching the notice to the rental unit door on July 10, 2014; and
- a copy of the Landlord's Application for Dispute Resolution, filed September 15, 2014.

### Analysis

I have reviewed all evidence and I accept that the tenant was served with the notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenant on July 13, 2014.

I accept the evidence before me that the tenant has failed to pay the rent owed within the five days granted under section 46(4) of the Act. I find that the tenant is conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on July 23, 2014, the corrected effective date of the notice. The landlord is therefore entitled to an order of possession.

As for the monetary order, based on the above-noted evidence I find that the landlord has established a claim for \$4800 in unpaid rent for July, August, September and October. As it is currently early November, I find that any claim for November 2014 rent is premature. The landlord is also entitled to recovery of the \$50 filing fee.

### Conclusion

I grant the landlord an order of possession effective two days from service. The tenant must be served with the order of possession. 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.

As for the monetary claim, the landlord is entitled to \$4850. I order that the landlord retain the security and pet deposits of \$1050 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$3800. This order may be 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: November 3, 2014

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Residential Tenancy Branch

