



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      Landlord: OPR, MNR, MNDC, FF  
Tenant: CNR, O

### Introduction

This hearing dealt with the cross Applications for Dispute Resolution. The landlord sought an order of possession and a monetary order. The tenant sought to cancel a notice to end tenancy.

The hearing was conducted via teleconference and was attended by two agents for the landlord.

The landlord testified the tenant was served with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* by registered mail on April 22, 2015 in accordance with Section 89. Section 90 of the *Act* deems documents served in such a manner to be received on the 5<sup>th</sup> day after they have been mailed.

Based on the testimony of the landlord, I find that the tenant has been sufficiently served with the documents pursuant to the *Act*.

In addition this hearing was originally set as a result of the tenant's Application for Dispute Resolution seeking to cancel a notice to end tenancy. As such, I am satisfied that the tenant was aware of this hearing; the call-in procedures; and the subject of the dispute between the parties.

### 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 *Act*.

It must also be decided if the landlord is entitled to cancel a 10 Day Notice to End Tenancy for Unpaid Rent, pursuant to Section 46 of the *Act*.

### Background and Evidence

The landlord submitted into evidence a copy of a tenancy agreement signed by the parties on May 21, 2014 for a 1 year fixed term tenancy beginning on June 1, 2014 that was intended to convert to a month to month tenancy on June 1, 2015 for a monthly rent of \$700.00 due on the 1<sup>st</sup> of each month with a security deposit of \$350.00 paid.

The tenant submitted into evidence a copy of a 10 Day Notice to End Tenancy for Unpaid Rent dated April 9, 2015 with an effective date of April 22, 2015 due to \$700.00 in unpaid rent. The tenant acknowledges, in his Application for Dispute Resolution that he received the Notice on April 10, 2015. The tenant submitted his Application to dispute the Notice on April 17, 2015.

The landlord testified that the tenant had failed to pay rent when it was due on April 1, 2015 and the 10 Day Notice was issued on April 9, 2015. The landlord submits that the tenant provided payment for use and occupancy for the month of May 2015 but that he has not paid rent for the month of April and only ½ month's rent for the month of June 2015.

### Analysis

Section 46 of the *Act* states a landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end the tenancy on a date that is not earlier than 10 days after the date the tenant receives the notice. A notice under this section must comply with Section 52 of the *Act*.

Section 46(4) allows the tenant to either pay the rent or file an Application for Dispute Resolution to dispute the notice within 5 days of receipt of the notice.

Section 46(5) states that if a tenant who has received a notice under this section does not pay the rent or make an Application for Dispute Resolution to dispute the notice within the allowed 5 days the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must vacate the rental unit.

In the absence of the applicant tenant, I dismiss the tenant's Application for Dispute Resolution in its entirety.

Section 55(1) of the *Act* states that if a tenant applies to dispute a landlord's notice to end tenancy and their Application for Dispute Resolution is dismissed or the landlord's notice is upheld and the landlord request one an order of possession must be granted to the landlord.

As the landlord's Application for Dispute Resolution, was in part, for an order of possession and I have dismissed the tenant's Application for Dispute Resolution I find the landlord is entitled to such an order pursuant to Section 55(1).

### 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 issue a monetary order in the amount of **\$1,100.00** comprised of \$1,050.00 rent owed and the \$50.00 fee paid by the landlord for this 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: June 02, 2015

---

Residential Tenancy Branch

