



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## DECISION

### Dispute Codes

OPR, MNSD, MNR, FF

### Introduction

This hearing proceeded by way of Direct Request Proceeding, pursuant to sections 55(4) and 74(2) of the *Residential Tenancy Act (Act)*, and dealt with an Application for Dispute Resolution by the Landlord for an Order of Possession, a monetary order, and authority to retain the security deposit.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on May 22, 2009 an agent for the Landlord posted the Notice of Direct Request Proceeding at the rental unit address. The Landlord received the Direct Request Proceeding package on May 21, 2009 and initiated service the next day.

Section 89(2) of the Act stipulates that a Notice of Direct Request Proceeding, when it relates to an application for an Order of Possession, can be posted at the rental unit. I therefore find that the Notice of Direct Request Proceeding in relation to the application for an Order of Possession has been duly served on the Tenant.

The Act does not allow a landlord to post a Notice of Direct Request Proceeding when it relates to an application for a monetary Order. I therefore find that the Notice of Direct Request Proceeding in relation to the application for a monetary Order has not been properly served on the Tenant. On this basis, I find that I am unable to consider the Landlord's application for a monetary Order.

### Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to an Order of Possession for unpaid rent and to recover the filing fee from the Tenant for the cost of the Application for Dispute Resolution, pursuant to sections 55 and 72 of the *Act*.

### Background and Evidence

I have reviewed the following evidence submitted by the Landlord:

- A copy of the Proof of Service of the Notice of Direct Proceeding for the Tenant

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- A copy of a residential tenancy agreement that was signed by the Tenant, which indicates that the tenancy began on April 09, 2009 and that the rent of \$1,245.00 is due on the first day of each month.
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was signed by an agent for the Landlord on May 14, 2009 which states that the Tenant must vacate the rental unit by May 25, 2009 unless the Tenant pays the rent within five days of receiving the Notice or submits an Application for Dispute Resolution seeking to set aside the Notice within five days of receiving the Notice. The Notice indicates that the Tenant owes rent, in the amount of \$1,245.00 which was due on May 01, 2009.
- A copy of Proof of Service of the 10 Day Notice to End Tenancy, in which an agent for the Landlord declared that she posted the Notice on May 14, 2009 at 1400 hours, in the presence of another agent for the Landlord, who also signed the Proof of Service.

On the Application for Dispute Resolution, an agent for the Landlord indicates that the she posted the 10 Day Notice to End Tenancy for Unpaid Rent on the door of the rental unit on May 14, 2009.

On the Application for Dispute Resolution, an agent for the Landlord declared that the Tenant had not paid rent for May of 2009.

## Analysis

Based on the evidence provided by the Landlord, I find that the Tenant did not pay his rent for May of 2009. Based on the evidence provided by the Landlord, I find that the Tenant was properly served with a 10 Day Notice to End Tenancy for Unpaid Rent when it was posted on the front door of the rental unit on May 14, 2009.

I have no evidence to show that the Tenant filed an Application for Dispute Resolution seeking to set aside the Notice to End Tenancy. Pursuant to section 46(5) of the *Act*, I therefore find that the Tenant has accepted that the tenancy ended on February 22, 2009, and that the Landlord is entitled to an Order of Possession.

## Conclusion

I find that the Landlord is entitled to an Order of Possession effective two days after service on the Tenant. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.



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I find that the Landlord has established a monetary claim, in the amount of \$50.00, in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution. The Landlord is hereby authorized to retain \$50.00 from the Tenant's security deposit in satisfaction of the monetary claim.

As the Notice of Direct Request Proceeding in relation to the application for a monetary Order was not properly served on the Tenant, I hereby dismiss the Landlord's application for a monetary Order for unpaid rent from May of 2009, with leave to reapply.

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 05, 2009.

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Dispute Resolution Officer