



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing and Social Development

## DECISION

### Dispute Codes

OPR, 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 and a monetary order.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that the Landlord served the Tenant with the Notice of Direct Request Proceeding by registered mail. The Landlord submitted a copy of a Canada Post Receipt, with a tracking number, which indicates that the Landlord mailed a package to the rental unit. The Canada Post website shows that this package was mailed to the Tenant on July 08, 2009 but there is no indication that the Tenant has received the package.

The Landlord received the Direct Request Proceeding package on July 08, 2009 and initiated service that day. Section 90 of the Residential Tenancy Act determines that a document served by mail is deemed to have been served on the fifth day after it is mailed, which in these circumstances is July 13, 2009.

Based on the written submissions of the Landlord, I find the Tenant has been served with the Dispute Resolution Direct Request Proceeding documents.

### 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 55, 67, and 72 of the *Act*.

## Background and Evidence

I have reviewed the following evidence that was submitted by the Landlord:

- A copy of the Proof of Service of the Notice of Direct Proceeding for the Tenant.
- A copy of a residential tenancy agreement between the Landlord and the Tenant, which indicates that the tenancy began on June 01, 2009 and that the Tenant was required to pay rent of \$1,375.00 on the first day of each month.
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was signed on July 02, 2009, which states that the Tenant must vacate the rental unit by July 12, 2009 as she has failed to pay rent in the amount of \$675.00 that was due on July 01, 2009. The Notice states that the tenancy will end unless the Tenant pays the rent or submits an Application for Dispute Resolution seeking to set aside the Notice within five days of receiving the Notice.
- A copy of a signed Proof of Service of the 10 Day Notice to End Tenancy that indicates that the Landlord personally served the Notice on the Tenant on July 02, 2009 at 1155 hours, in the presence of the Landlord's boyfriend, who also signed the Proof of Service.

In the Application for Dispute Resolution the Landlord stated the 10 Day Notice to End Tenancy for Unpaid Rent was personally served on July 02, 2009.

In the Application for Dispute Resolution, the Landlord stated that the Tenant owes \$675.00 in rent from July of 2009.

## Analysis

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that a 10 Day Notice to End Tenancy was personally served on the Tenant on July 02, 2009.

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that the Tenant had not paid outstanding rent of \$675.00 that was due on July 01, 2009 by the time the Landlord filed the Application for Dispute Resolution. I have no evidence to show that the Tenant paid the outstanding rent since the Landlord filed the Application for Dispute Resolution, and therefore I find

that the Tenant owes rent in the amount of \$675.00.

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 ten days after she is deemed to have received the Notice. On this basis, I find 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.

I find that the Landlord has established a monetary claim, in the amount of \$725.00, which is comprised on \$675.00 in unpaid rent from July of 2009 and \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution. Based on these determinations I grant the Landlord a monetary Order for the amount of \$700.00. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

The Landlord and the Tenant are hereby reminded of section 38(3) of the *Act*, which reads:

*A landlord may retain from a security deposit or a pet damage deposit an amount that*

*(a) the director has previously ordered the tenant to pay to the landlord, and*

*(b) at the end of the tenancy remains unpaid.*

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: July 20, 2009.

---

Dispute Resolution Officer