



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing and Social Development

## DECISION

### Dispute Codes

OPR, MNR

### 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 document which declares that on August 03, 2010 the female Landlord personally served the female Tenant with the Notice of Direct Request Proceeding at the rental unit address. No evidence was submitted to establish that the male Tenant was served with Notice of Direct Request Proceeding.

The purpose of serving the Notice of Direct Request Proceeding is to notify the Tenant that a direct request proceeding has been initiated. The Landlord has the burden of proving that the Tenant was served with the Notice of Direct Request Proceeding.

The Landlord has applied for a monetary Order which requires that the Landlord serve each respondent with Notice of Direct Request Proceeding pursuant to section 89(1) of the *Act*. As the Landlord did not establish that both Tenants were served with copies of the Notice of Direct Request Proceeding pursuant to section 89(1) of the *Act*, I find that I am unable to consider the Landlord's application for a monetary Order. On this basis, I dismiss the Landlord's application for compensation for unpaid rent, with leave to reapply on that specific issue.

The Landlord has applied for an Order of Possession which requires that the Landlord serve the respondent with Notice of Direct Request Proceeding pursuant to section 89(2) of the *Act*. I find that the Landlord served the female Tenant with copies of the Notice of Direct Request Proceeding pursuant to section 89(2)(a) of the *Act* and I find that the Landlord served the male Tenant with copies of the Notice of Direct Request Proceeding pursuant to section 89(2)(c) of the *Act*. I therefore find that I am able to consider the Landlord's application for an Order of Possession.

Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to an Order of Possession for unpaid rent pursuant to section 55 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 female Tenant
- A copy of a residential tenancy agreement that appears to be signed by both Tenants, which indicates that the tenancy began on January 31, 2010, that the rent of \$900.00 per month is due on the first day of the month, and that the Tenants paid a security deposit of \$450.00.
- A copy of a 10 Day Notice to End Tenancy that was signed by the female Landlord on July 15, 2010, which declares that the Tenants must vacate the rental unit by July 25, 2010 unless the Tenants pay 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 Tenants owe rent, in the amount of \$900.00 for unpaid rent that was due on July 01, 2010.
- A signed copy of Proof of Service of the 10 Day Notice to End Tenancy, in which the female Landlord declared that she personally served the Notice to one of the Tenants on July 15, 2010, in the presence of the male Landlord, who also signed the Proof of Service.

On the Application for Dispute Resolution, the Landlord declared that 10 Day Notice to End Tenancy for Unpaid Rent was personally served on July 15, 2010.

On the Application for Dispute Resolution, the Landlord declared that the Tenant had not paid rent, in the amount of \$460.00, for July of 2010.

Analysis

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that the Tenants entered into a tenancy agreement that required the Tenant to pay monthly rent of \$900.00 on the first day of each month.

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that one of the Tenants was personally served with a 10 Day Notice to End Tenancy on July 15, 2010.

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that the Tenants had not paid all of the rent that was due for July of 2010 by the time the Landlord filed this Application for Dispute Resolution on August 03, 2010. I am therefore able to conclude that the Tenants did not pay the outstanding rent within five days of receiving the Notice to End Tenancy.

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 the Tenant received the Notice to End Tenancy.

### 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.

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: August 10, 2010.

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Dispute Resolution Officer