



# Dispute Resolution Services

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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 which declares that on August 12, 2010 an agent for the Landlord personally served the Tenant with the Notice of Direct Request Proceeding at the rental unit. Section 90 of the *Act* determines that a document, when served personally, is deemed to have been served on the same day of service.

Based on the written submissions of the Landlord, I find the Tenant has been duly 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 and to a monetary Order for unpaid rent, pursuant to sections 55 and 67 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
- A copy of a residential tenancy agreement that was apparently signed by the Tenant, which indicates that the tenancy began on August 25, 2005 and that the rent of \$932.00 per month is due in advance on the last day of the month
- Copies of Notices of Rent Increase that shows the rent has been periodically increased during this tenancy and that the current rent is \$1,068.00 per month
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was signed by an agent for the Landlord on August 06, 2010 which declares that the Tenant

must vacate the rental unit by August 16, 2010 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 \$1,068.00, that was due on July 31, 2010.

- A copy of Proof of Service of the 10 Day Notice to End Tenancy, in which an agent for the Landlord declared that he personally served the Notice to the Tenant on August 06, 2010 at 1500 hours. The Tenant has signed the Proof of Service to acknowledge receipt of the Notice to End Tenancy.

On the Application for Dispute Resolution, the Landlord indicates that the 10 Day Notice to End Tenancy for Unpaid Rent was personally served on August 06, 2010 and that the Tenant has not paid rent for August of 2010.

### Analysis

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that the Tenant entered into a tenancy agreement that currently requires the Tenant to pay monthly rent of \$1,068.00 in advance on the last day of the month.

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 rent for August of 2010 by the time the Landlord filed this Application for Dispute Resolution. I have no evidence to show that the Tenant paid the outstanding rent since the Application for Dispute Resolution was filed and therefore I find that the Tenant owes rent in the amount of \$1,068.00.

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 August 06, 2010.

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 August 16, 2010, which is ten days after the Notice is deemed to have been received.

### 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 \$1,068.00, for unpaid rent and I grant the Landlord a monetary Order in this amount. 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.

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 20, 2010.

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Dispute Resolution Officer