



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## DECISION

### Dispute Codes

OPR, MNR

### Introduction

This matter was conducted by way of Direct Request Proceeding, pursuant to section 55(4) of the *Residential Tenancy Act* (the "Act"), and dealt with an Application for Dispute Resolution by the landlord for an Order of Possession and a Monetary Order for unpaid rent.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on December 14, 2010 the landlord personally served the male tenant at the rental unit with the Notice of Direct Request Proceeding.

Section 89 of the Act determines the method of service for documents related to a dispute resolution proceeding. The landlord has applied for a Monetary Order which requires that the landlord serve each tenant by personal delivery or registered mail, as set out under section 89(1). In this case only one of the two tenants has been personally served with the Notice of Direct Request Proceeding document. Therefore, I find that the request for a Monetary Order against both tenants must be amended to include only the male tenant who has been properly served with Notice of this proceeding.

The landlord has requested an Order of Possession against both tenants. Section 89(2) of the Act determines that the landlord may leave a copy of the Application for Dispute Resolution related to a request for an Order of Possession at the tenant's residence with an adult who apparently resides with the tenant. I find that by serving the male tenant with the Notice of this proceeding, both tenants have been sufficiently served with the portion of the Application for Dispute Resolution relating to an Order of Possession.

### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession and monetary compensation for unpaid rent?

### Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Proceeding for the male tenant,
- A copy of a residential tenancy agreement which was signed by the parties on May 29, 2010, indicating a monthly rent of \$1,500.00 due on the 1<sup>st</sup> day of every month;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on December 7, 2010 with a stated effective vacancy date of December 17, 2010, for \$1,500.00 in unpaid rent as of December 1, 2010; and,
- A copy of a Proof of Service of the 10 Day Notice indicating landlord personally served the 10 Day Notice upon the male tenant at the rental unit on December 7, 2010 in the presence of a witness.

The 10 Day Notice states that the tenants had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenants did not apply to dispute the Notice to End Tenancy within five days from the date of service.

### Analysis

I have reviewed all documentary evidence and accept that the tenants have been served with a 10 Day Notice to End Tenancy as declared by the landlord. I accept the evidence before me that the tenants have failed to pay the rent owed in full or dispute the Notice within 5 days of receiving the Notice as permitted under section 46(4) of the *Act*. Accordingly, I find that the tenants are conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy will end on the effective date of the Notice.

In light of the above, I order that the tenancy shall end December 17, 2010 and given the date of this decision I provide the landlord with an Order of Possession effective two (2) days after service upon the tenants. The Order of Possession may be filed in The Supreme Court of British Columbia and enforced as an Order of that court.

I find the landlord is entitled to monetary compensation for unpaid rent in the amount of \$1,500.00 and the landlord is provided a Monetary Order to serve upon the male tenant. The Monetary Order may be filed in Provincial Court (Small Claims) to enforce as an Order of that court. The security deposit remains in trust to be administered in accordance with the *Act*.

Conclusion

The tenancy ends on December 17, 2010 and the landlord is provided an Order of Possession effective two (2) days after service upon the tenants. The landlord is provided a Monetary Order against the male tenant in the amount of \$1,500.00.

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: December 16, 2010.

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Dispute Resolution Officer