



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## DECISION

Dispute Codes      OPR, MNR

### Introduction

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

The Landlords submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on February 24, 2011 the Landlords served the Tenant with the Notice of Direct Request Proceeding via registered mail. Section 90 of the Residential Tenancy Act deems a document delivered in that manner to have been received (or served) on the fifth day after it was sent. Based on the evidence and written submissions of the Landlords, I find that the Tenant was served as required by s. 89 of the Act with the Dispute Resolution Direct Request Proceeding documents.

### Issue(s) to be Decided

The issues to be decided are whether the Landlords are entitled to an Order of Possession for unpaid rent and to a Monetary Order for unpaid rent pursuant to sections 46, 55 and 67 of the *Residential Tenancy Act (Act)*.

### Background and Evidence

The Landlords submitted the following documentary evidence:

- A copy of the Proof of Service of the Notice of Direct Proceeding for the Tenant;
- A copy of a residential tenancy agreement which was signed by the parties on January 31, 2003 for a month-to-month tenancy beginning February 01, 2003 for the monthly rent of \$500.00 due in advance on 1st of the month; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on February 12, 2011 with an effective vacancy date of February 25, 2011 due to \$1,216.00 in unpaid rent.

The submissions filed by the Landlords indicate that the Tenant failed to pay "rent in full" as of February 1, 2011 with the result that rent of \$1,216.00 was owing and that the Tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent on February 12,

2011 when it was posted to the rental unit door. The Notice states that the Tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The Tenant did not apply to dispute the Notice to End Tenancy within five days.

### Analysis

I have reviewed all of the documentary evidence and accept that the Tenant been served with the Notice to End Tenancy as declared by the Landlords. Pursuant to s. 90 of the Act, the Notice was deemed to be received by the Tenant 3 days after it was posted or on February 15, 2011 and the effective date of the Notice is February 25, 2011. I accept the evidence before me that the Tenant has failed to pay rent owing in full within the 5 days granted under section 46 (4) of the Act. Based on the foregoing, I find that the Tenant is conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

The Landlords claimed that “rent was not paid in full” and that rent of \$1,216.00 is unpaid, however the Parties’ tenancy agreement says that rent is \$500.00 per month. Although I find that there likely was rent owing as of February 1, 2011, I also find that the Landlords have not provided sufficient particulars to support their application for a Monetary Order for the amount sought as unpaid rent and as a result, that part of their application is dismissed with leave to reapply

### Conclusion

I find pursuant to s. 55(2)(b) of the Act that the Landlords are entitled to an Order of Possession effective **two days after service on the Tenant**. This Order must be served on the Tenant and may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court. The Landlords’ application for a Monetary Order is dismissed 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: March 15, 2011.

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Residential Tenancy Branch