



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **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 Landlord for an Order of Possession and a Monetary Order for unpaid rent.

The Landlord's application named two persons as Tenants (S.W. and D.A.) however only one of those persons (S.W.) is a Party to the tenancy agreement. Consequently I find that D.A. is not properly named as a party in these proceedings and the style of cause is amended to remove D.A. as a Party. The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on July 13, 2011 the Landlord served the Tenant with the Notice of Direct Request Proceeding in person and via registered mail. Section 90 of the Residential Tenancy Act deems a document delivered by mail to have been received (or served) on the fifth day after it was sent. Based on the evidence and written submissions of the Landlord, 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 Landlord is 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 Landlord 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 October 16, 2010 for a month-to-month tenancy beginning October 20, 2010 for the monthly rent of \$1,200.00 due in advance on the 25<sup>th</sup> day of the preceding month; and

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated and served on June 21, 2010 with an effective vacancy date of June 31, 2011 due to \$8,400.00 in unpaid rent.

The evidence filed by the Landlord indicates that the Tenant failed to pay the rent owed for the 7 month period, November 25, 2010 to June 24, 2011, and that the Tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent in person on June 21, 2011. 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 Landlord. I find that the 10 Day Notice to End Tenancy was received by the Tenant on June 21, 2011, and pursuant to s. 53 of the Act the effective date of the Notice is amended to July 1, 2011. I accept the evidence before me that the Tenant has failed to pay the rent owed 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 would end on the effective date of the Notice.

### Conclusion

I find pursuant to s. 55(2)(b) of the Act that the Landlord is 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 enforced in the Supreme Court of British Columbia.

I also find that the Landlord is entitled to a Monetary Order for unpaid rent in the amount of **\$8,400.00**. This Order must also be served on the Tenant and may be enforced in the Provincial (Small Claims) Court of British Columbia.

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 27, 2011.

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Residential Tenancy Branch